



AGENDA:
DATE:
LOCATION:

BOARD OF DIRECTORS MEETING
Thursday, March 21, 2024, at 10:00 a.m.
County of Imperial
Board of Supervisors Chamber
County Administration Center
940 West Main Street, Suite 211
El Centro, CA 92243

The Following Salton Sea Authority Directors will be attending via video/teleconference from:

Director Yxstian Gutierrez
Riverside County 5th District
4080 Lemon Street
Riverside, CA 92502

Director V. Manuel Perez
Fourth District County of Riverside
78-015 Main Street, Suite 205
(760) 863-8211

Director Tortez
Torres Martinez Tribal Office
66725 Martinez Road
Thermal, CA 92274

Revised 3/20/24 @ 10:00am

Remote participation for this meeting is accessible at:

<http://www.SaltonSea.com/meetings>

I. CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

A copy of the agenda and supplemental materials will be available for viewing or download from SaltonSea.com/meetings

II. PUBLIC COMMENTS

This Public Comments time is reserved for comments on any non-action agenda item and for matters not on the agenda. California law prohibits members of the Board from taking action on matters not on the agenda.

Members of the public may address the Board regarding any matter within the Authority's jurisdiction and are invited to speak to any specific action item in the agenda at the time it is called. All non-action agenda items should be addressed during this general public comment period.

Speakers should state their name for the record and address all comments to the Chair, limiting remarks to three (3) minutes.

In person attendees should complete a “request to speak” form and provide it to the Clerk of the Board. Remote speakers must use Zoom’s “raised hand” feature (or if by phone, press *9) to be recognized.

Written comments may be emailed to **info@saltonsea.com**, or delivered by hand or mail to 82995 Highway 111, Suite 200, Indio, California, “Attn: Clerk of the Board, Salton Sea Authority”. Please include “Public Comment, 03/21/2024 Board meeting” in the subject line, and also include your name, address (addresses will be redacted), referencing the specific agenda item if appropriate.

All written comments will be distributed to the Board, posted on **SaltonSea.com** for public viewing and, **if received before noon on Wednesday, March 20**, publicly acknowledged during the Board meeting. (Written comments will be included in the public record but not be read aloud.)

III. BOARD MEMBER COMMENTS

This time is set aside for members of the Board to share thoughts and concerns regarding general Authority matters not on the agenda, ask questions of staff, and request items to be added to a future agenda.

The Brown Act expressly prohibits lengthy Board Member discussion of matters not on the agenda. The Board may at its discretion (by 4/5 vote) add items deemed to be an emergency to the agenda to allow for public discourse.

IV. ITEMS FOR DISCUSSION AND POSSIBLE BOARD ACTION

- A. CONSENT CALENDAR – Approve, Receive, and File
 - 1. Minutes of Salton Sea Authority Board Meeting February 15, 2024
 - 2. Salton Sea Authority Warrant Register Ratification for February 29, 2024
 - 3. Salton Sea Authority Internal Financial Report for January 31, 2024
- B. USACE Update on funding restrictions, 3x3x3, hydrology workshop and implementation.
- C. Review and Approve Office Lease – 82500 Highway 111, Suite 4, Indio, CA
- D. Allied/Cal Mutual JPRIMA Insurance Renewal
- E. Update on Outreach, Engagement, and Education
 - 1. Expiring Agreement / Extension Request
 - 2. SSMP Annual Report workshops
 - 3. North Lake Pilot Demonstration Project outreach
 - 4. Public Relations Director status

F. Preliminary Review of Salton Sea Authority 2024/2025 Operating Budget.

G. Modified Meeting Dates and Locations 2024/2025

H. Bill Packet Review

1. AB 2610 (Garcia) – Environmental Protection
2. AB 1834 (Garcia) – Air Quality
3. SB 967 (Padilla) - Monitoring
4. AB 2757 (Garcia) – Economic Development
5. SB 974 (Grove) – Salton Sea Lithium Fund
6. Budget
7. Bonds
8. Other

I. Project Updates

1. North Lake Pilot Demonstration Project
2. Desert Shores
3. Bombay Beach

V. REPORTS

A. Federal

1. Federal Activities – Lisa Moore Lehman, Partner, Cultivating Conservation
2. US Bureau of Reclamation – Jeremy Brooks – No Report

B. State

1. State Advocacy Report – Oracio Gonzalez, Principal, Ollin Strategies
2. State of California – Mr. Miguel Hernandez, Public Affairs Officer, California Natural Resources Agency
3. Salton Sea State Recreation Area Update on Activities – Enrique Arroyo, District Superintendent, California State Parks

C. Local

1. Salton Sea Action Committee – Alan Pace, SSAC President

D. Executive Director’s Report and Comments - G. Patrick O’Dowd, Executive Director/GM, Salton Sea Authority

VI. ADJOURNMENT

NEXT MEETING TIME & LOCATION:

The Salton Sea Authority board is scheduled to meet on:

Thursday, April 18, 2024, at 10:00a.m.

Location To Be Determined

Any public record, relating to an open session agenda item, that is distributed within 72 hours prior to the meeting is available for public inspection in the lobby at the front desk of the County Law Building located at 82995 Highway 111, Indio, CA 92201.



**OFFICIAL PROCEEDINGS
SALTON SEA AUTHORITY
BOARD OF DIRECTORS MEETING
February 15, 2024**

I. CALL TO ORDER

The regularly scheduled meeting of the Salton Sea Authority (“Authority”) Board of Directors (“Board”) was called to order by Chairman Estrada, at 10:15 a.m., February 15, 2024, at Coachella Valley Water District, Steve Robbins Administration Building, and via Zoom Webinar.

PLEDGE OF ALLEGIANCE – Led by Chairman Estrada

ROLL CALL

DIRECTORS PRESENT ON SITE

Ryan E. Kelley, Director
Gina Dockstader, Secretary
V. Manuel Perez, Director
Cástulo R. Estrada, Vice-President
John Aguilar, Director
Thomas Tortez, Director

AGENCY

Imperial County
Imperial Irrigation District
Riverside County
Coachella Valley Water District
Coachella Valley Water District
Torres Martinez Desert Cahuilla Indians

DIRECTORS PRESENT VIA ZOOM

Ex-Officio Samantha Arthur
Luis A. Plancarte, Director
Alex Cárdenas, Director

AGENCY

California Natural Resources Agency
Imperial County
Imperial Irrigation District

DIRECTORS ABSENT

Altrena Santillanes, President
Yxstian Gutierrez, Treasurer

AGENCY

Torres Martinez Desert Cahuilla Indians
Riverside County

SALTON SEA AUTHORITY STAFF PRESENT

G. Patrick O’Dowd, Executive Director/GM (in person)
Carlos Campos, Best Best & Krieger, Legal Counsel (in person)
Bob Hargreaves, Best Best & Krieger, Legal Counsel (Via Zoom)

MEMBERS OF THE PUBLIC PRESENT

On Site: Phill Kiddoo, Great Basin Unified Air Pollution District, Adrinna Teran, Comite Civico del Valle, Inc.

Via Zoom: Norman Aiello – Gafcon, Alan Pace, SSAC, Miguel Hernandez, CNRA, Michael Cohen, Pacific Institute, Joanna Hoff, IID, Steven Garcia, DWR, Aydee Palomino, Alianza, Evon Willhoff, DWR and 20 others.

II. PUBLIC COMMENTS

No Comments

III. BOARD MEMBER COMMENTS

No Comments

IV. ITEMS FOR DISCUSSION AND POSSIBLE BOARD ACTION

A. CONSENT CALENDAR – Approve, Receive, and File

1. Minutes of Salton Sea Authority Board Meeting January 18, 2024
2. Salton Sea Authority Warrant Register Ratification for January 31, 2024
3. Salton Sea Authority Internal Financial Report for December 2023

Motion made by Cardenas, second by Gutierrez, the Board approved the Consent Calendar to be received and filed.

Approved by the following vote:

AYES: Vice President Estrada, Secretary Dockstader, Director's Cardenas, Plancarte, Torte, Aguilar and Perez.

NOES: 0

ABSENT: Directors Santillanes Kelley and Gutierrez

ABSTAINED: 0

MOTION PASSED: 7-0

B. Monitoring and Public Health

- a. Monitoring, Mitigation and Enforcement at Owens Lake, CA - Phill Kiddoo, Air Pollution Control Officer - Great Basin Unified Air Pollution Control District gave a presentation on Owens Lake. Compared to the Salton Sea, Owens Lake is a 1/3 in size. They are using a variety of different mitigation options to achieve best available control measures (BACM)

23 staff members run this program, including air quality specialists, scientists, and air monitoring technicians. Directors Kelley, Dockstader, Perez, Aguilar, Estrada, Cardenas, Ex-Officio Samantha Arthur and Michael Cohen commented on the presentation.

- b. Update on research regarding microbial toxins at the Salton Sea – Dr. David Lo, Senior Associate Dean for Research at the University of California, Riverside School of Medicine, and a Distinguished Professor in the Division

of Biomedical Sciences gave a short presentation on the studies they have been doing on certain biological toxins that may be causing Asthma, nose bleeds and eczema. Directors Perez, Kelley, Estrada, Aguilar and Cardenas all agreed that the Authority needs to build a bridge to CNRA and health and human safety agencies to craft legislative language that addresses the preliminary findings shared.

- c. Review of current relevant legislation – Oracio Gonzalez, Ollin Strategies gave an update on Assembly Bill 1834, “An act relating to public health” – Garcia and Senate Bill 937, Pilot project relating to dust forecast, etc. – Padilla and the state budget. Directors Aguilar, Perez and Estrada feel that we need to give options to Secretary Crowfoot and get his feedback to ensure the minimum of the \$65.1MM budgeted comes our way. Ex-Officio Samantha Arthur provided details on the budget proposal: Of the \$65MM, \$60MM is for planning, permitting, and construction of new vegetation enhancements, aquatic projects. This is for the next set of projects that is in the cue for CNRA’s team to continue with existing projects and expand dust suppression and habitat footprint. 18 positions are budgeted for the next 2 years, of which 8 are for O&M of completed projects.
- d. Board directed staff to invite Secretary Crowfoot to discuss with Authority Board these issues and concerns.

- C. Desert Shores – Gafcon Update and Amended Scope of Work – Gafcon representatives, Staff. Mr. O’Dowd discussed the need to expand the scope of work due to the increased need for diligence prior to next steps, including detailed project budget, and bids for construction and design. Director Kelley commented and made a motion to accept the proposal changes.

Motion made by Kelley, second by Aguilar to approve the revised scope of work.

Approved by the following vote:

AYES: Directors Estrada, Dockstader, Cardenas, Plancarte, Tortez, Aguilar Perez and Kelley.

NOES: 0

ABSENT: Directors Santillanes and Gutierrez

ABSTAINED: 0

MOTION PASSED: 8-0

D. Other Project Updates

- a. North Lake Pilot Demonstration Project, Mr. O’Dowd gave a brief update. The geological testing is completed and based on those findings DUDEK is working to revise the project budget.

V. REPORTS

A. Federal

1. Federal Activities – Lisa Moore Lehman, Partner, Cultivating Conservation – No Report
2. US Bureau of Reclamation – Jeremy Brooks - No Report

B. State

1. State Advocacy Report – Oracio Gonzalez, Principal, Ollin Strategies, spoke during the IV.B discussions, and submitted a written report.
2. State of California – Mr. Miguel Hernandez, Public Affairs Officer, California Natural Resources Agency gave a brief update on upcoming community outreach meetings taking place in March.
3. Salton Sea State Recreation Area Update on Activities – Enrique Arroyo, District Superintendent, California State Parks gave a brief update. In 2024, the State Park has had 2-4K visitors. There is a Free access program for 4th grade students and families. There is also a Grant for a yearlong weekly visit for youths 7-18 years.

C. Local

1. Salton Sea Action Committee – Alan Pace, SSAC President gave a brief update on in person and virtual tours. They have also been invited to be on the advisory committee at the Salton Sea Summit in October.

D. Executive Director’s Report and Comments - G. Patrick O’Dowd, Executive Director/GM, Salton Sea Authority gave a brief update. At the Authority’s next meeting in March, he expects to have a Draft Budget and is hoping to include the review and finalization of the extension of the State’s Public Relations Position in April.

VI. ADJOURNMENT

Meeting Adjourned 12:07 p.m.

NEXT MEETING TIME & LOCATION:

The Salton Sea Authority board is scheduled to meet on:

Thursday, March 21, 2024, at 10:00a.m.
Imperial County BOS Chamber
940 W. Main Street
El Centro, CA 92243
(442) 265-1020

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**Salton Sea Authority
Checking Account Activity**

February 1, 2024 through February 29, 2024

Date	Number	Vendor Name	Description	Amount
02/02/2024	Deposit	Department of Water Resources	North Lake grant reimbursement for period ended 09/23	46,388.73
02/05/2024	Deposit	Torres Martinez Desert Cahuilla Indians	Member contribution FY 23/24	10,000.00
02/09/2024	ACH	County of Riverside	North Lake grant reimbursement for period ended 09/23	(43,485.71)
02/09/2024	7484810	County of Imperial	Bureau of Reclamation reimbursements for period ended 06/23	(417.21)
02/09/2024	7493027	County of Imperial	Bureau of Reclamation reimbursements for period ended 09/23	(7,977.42)
02/12/2024	EFT	Melio Bill Payer	Check processing fees 12/23	(3.00)
02/12/2024	EFT	Pacific Western Bank	Visa billing cycle ended 01/24	(3,197.33)
02/26/2024	Deposit	IID	Member contribution FY 23/24 - Installment 2 of 3	66,700.00
02/26/2024	Deposit	State of California	Unclaimed property refund	39.08
Beginning Cash Balance				\$ 194,788.44
Monthly Activity				68,047.14
Ending Cash Balance				\$ 262,835.58



Salton Sea Authority Budget to Actual General Fund (Unaudited)

For the Period July 1, 2023 through January 31, 2024

	A	B	C	D	C/D	C - D
	December 2023	January 2024	YTD FY 24	Budget FY 24	YTD Target 58%	\$ Variance
1 REVENUE						
2 Local Government / Member Assessments	\$ 266,600	\$ -	\$ 666,600	\$ 800,000	83%	\$ (133,400)
3 Other Federal / State / Local Contributions	-	-	-	25,000	0%	(25,000)
4 Sponsorships	-	-	-	25,000	0%	(25,000)
5 Grant and Other Reimbursements to General Fund	3,309	1,891	6,350	194,400	3%	(188,050)
6 TOTAL REVENUE	269,909	1,891	672,950	1,044,400	64%	(371,450)
7 EXPENSES						
8 SSA Administration						
9 Salaries & Benefits						
10 Total Salaries	20,204	15,934	128,653	309,300	42%	(180,647)
11 Total Employee Benefits	10,113	8,782	66,700	171,600	39%	(104,900)
12 Total Salaries & Benefits	30,317	24,716	195,353	480,900	41%	(285,547)
13 Contract / Professional Services						
14 DC Advocates	7,350	7,350	52,840	94,200	56%	(41,360)
15 Sacramento Advocates	7,000	7,000	49,000	88,200	56%	(39,200)
16 Attorney Fees	656	4,106	16,472	54,000	31%	(37,528)
17 Audit & Accounting	3,419	1,880	33,922	76,200	45%	(42,278)
18 Total Contract / Professional Services	18,425	20,335	152,233	312,600	49%	(160,367)
19 Travel/Mileage	713	2,492	15,025	40,000	38%	(24,975)
20 Equipment / IT Maintenance	382	382	2,674	8,300	32%	(5,626)
21 Non-capitalized Office Equipment	-	-	-	8,000	0%	(8,000)
22 Insurance	944	944	6,610	11,600	57%	(4,990)
23 Office Expense/Operating Supplies	189	555	2,235	8,700	26%	(6,465)
24 Office Expense/Online Services	365	457	2,605	4,000	65%	(1,395)
25 Dues, Subscriptions	669	676	5,090	10,000	51%	(4,910)
26 Operating Expenses / County Charges	167	1,146	4,435	7,400	60%	(2,965)
27 Board Room Usage and Recordings	2,388	-	2,388	2,400	100%	(12)
28 Interest Expense	(18)	-	1,092	-	N/A	1,092
29 TOTAL EXPENSES	54,541	51,703	389,740	893,900	44%	(504,160)
30 NET REVENUE / (EXPENSES)	\$ 215,368	\$ (49,812)	\$ 283,209	\$ 150,500	188%	\$ 132,709

*No assurance is provided on these financial statements. The financial statements do not include a statement of cash flows. Substantially all disclosures required by accounting principles generally accepted in the U.S. are not included.



Salton Sea Authority
Budget to Actual
DWR - Proposition 68 Grant (Unaudited)
 For the Period July 1, 2023 through January 31, 2024

	A	B	C	D	C/D	C - D
	December 2023	January 2024	YTD FY 24	Budget FY 24	YTD Target 58%	\$ Variance
1 REVENUE						
2 State of California Grant (Prop 68)	\$ 51,543	\$ 66,921	\$ 118,375	\$ 2,000,000	6%	\$ (1,881,625)
3 TOTAL REVENUE	51,543	66,921	118,375	2,000,000	6%	\$ (1,881,625)
4 EXPENSES						
5 Salton Sea Authority Salaries	2,891	1,880	4,771	79,700	6%	(74,929)
6 Department of Water Resources-North Lake Demo	48,652	65,041	113,604	1,920,300	6%	(1,806,696)
7 TOTAL EXPENSES	51,543	66,921	118,375	2,000,000	6%	(1,881,625)
8 NET INCOME / (LOSS)	\$ -	\$ -	\$ -	\$ -		\$ -

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Salton Sea Authority Budget to Actual BOR -DSR (Unaudited)

For the Period July 1, 2023 through January 31, 2024

	A	B	C	D	C / D	C - D
	December 2023	January 2024	YTD FY 24	Budget FY 24	YTD Target 58%	\$ Variance
1 REVENUE						
2 Bureau of Reclamation Grant	\$ 397	\$ -	\$ 9,974	\$ 750,000	1%	\$ (740,026)
3 TOTAL REVENUE	397	-	9,974	750,000	1%	\$ (740,026)
4 EXPENSES						
5 Riverside County Salaries	397	-	1,423	25,000	6%	(23,577)
6 Bureau of Reclamation-Desert Shores Revitalization	-	-	8,550	725,000	1%	(716,450)
7 TOTAL EXPENSES	397	-	9,974	750,000	1%	(740,026)
8 NET INCOME / (LOSS)	\$ -	\$ -	\$ -	\$ -		\$ -

*No assurance is provided on these financial statements. The financial statements do not include a statement of cash flows. Substantially all disclosures required by accounting principles generally accepted in the U.S. are not included.



Salton Sea Authority
Balance Sheet
(Unaudited)
As of January 31, 2024

1	ASSETS		
2	Checking/Savings	\$	221,696
3	Prepaid Items		9,322
4	Grants Receivable		197,565
5	TOTAL ASSETS		428,583
6	LIABILITIES & FUND BALANCE		
7	LIABILITIES		
8	Accounts Payable		18,025
9	Credit Card Payable		3,230
10	Accrued Payroll		12,247
11	Due to Imperial County		8,395
12	Due to Riverside County		182,224
13	Accrued Vacation		51,800
14	TOTAL LIABILITIES		275,921
15	FUND BALANCE		152,662
16	TOTAL LIABILITIES & FUND BALANCE	\$	428,583

*No assurance is provided on these financial statements. The financial statements do not include a statement of cash flows. Substantially all disclosures required by accounting principles generally accepted in the U.S. are not included.

Memorandum

To: Salton Sea Authority Board of Directors
From: G. Patrick O'Dowd, Executive Director /GM
Date: March 21, 2024

Re: Office Lease - 82500 Highway 111 Suite 4 Indio, CA 92201

For the last 10 years the Salton Sea Authority has enjoyed the benefit of utilizing surplus County of Riverside space at minimal cost. Because of increasing demand for space, the County can no longer house the Authority's operations. Staff, working with both private and county real estate professionals, have searched throughout the valley from Palm Springs to Coachella for space, and have identified a unit which meets our programmatic objectives.

Situated just two blocks from the Authority's existing offices, this 780sf unit with three (3) offices and a reception area is available on the following terms:

Lease Commencement: April 1, 2024, with early occupancy upon lease execution, receipt of funds for 1st month rent and security deposit, copy of Certificate of Insurance

Rent Commencement: May 1, 2024

Lease Term: 2 Years and one month effective April 1, 2024 – April 30, 2026

Rent: Year 1: \$1,200.00/Month Modified Gross

Rent: Year 2: \$1,250.00/Month Modified Gross

Security Deposit: \$1,250.00

Lessor Pays: Property Tax, Property Insurance, Common Area Electrical, Janitorial and Landscaping of Common Area, Water & Sewer, Management, and common area maintenance & repairs

Lessee Pays: Electricity, phone and Internet for the premises, janitorial for the premises, HVAC service maintenance twice per year (Est. \$65/service). Lessee responsible for first \$250 of any HVAC repair in any calendar year, Lessor

responsible for repair costs above \$250 per calendar year, liability and personal property for Lessee's property.

Lessee Work: Lessee to paint the office interior a color to be approved by Lessor, not to be unreasonably withheld.

Our current forecast of operations shows adequate resources to meet this obligation in the current year, and occupancy costs are included in next year's proposed budget.

Staff Recommendation: Approve execution of lease agreement attached, subject to final review by Authority counsel.

STANDARD INDUSTRIAL/COMMERCIAL MULTI-TENANT LEASE - GROSS

1. Basic Provisions ("Basic Provisions").

1.1 Parties. This Lease ("Lease"), dated for reference purposes only March 15, 2024, is made by and between J&J Investments ("Lessor") and Salton Sea Authority ("Lessee"), (collectively the "Parties", or individually a "Party").

1.2(a) Premises: That certain real property, including all improvements therein or to be provided by Lessor under the terms of this Lease, commonly known as (street address, unit/suite, city, state, zip): 82500 Highway 111 Suite 4 Indio, CA 92201 ("Premises"). The Premises are located in the County of Riverside, and are generally described as (describe briefly the nature of the Premises and the "Project"): +/- 780 SF Retail/Office Space. In addition to Lessee's rights to use and occupy the Premises as hereinafter specified, Lessee shall have non-exclusive rights to any utility raceways of the building containing the Premises ("Building") and to the Common Areas (as defined in Paragraph 2.7 below), but shall not have any rights to the roof, or exterior walls of the Building or to any other buildings in the Project. The Premises, the Building, the Common Areas, the land upon which they are located, along with all other buildings and improvements thereon, are herein collectively referred to as the "Project." (See also Paragraph 2)

1.2(b) Parking: unreserved vehicle parking spaces. (See also Paragraph 2.6)

1.3 Term: 2 years and 1 months ("Original Term") commencing April 1, 2024 ("Commencement Date") and ending April 30, 2026 ("Expiration Date"). (See also Paragraph 3)

1.4 Early Possession: If the Premises are available Lessee may have non-exclusive possession of the Premises commencing Upon execution of the Lease Agreement, payment of 1st Month and Security Deposit, and receipt of liability insurance naming Lessor as Additional Insured. ("Early Possession Date"). (See also Paragraphs 3.2 and 3.3)

1.5 Base Rent: \$1,200.00 per month ("Base Rent"), payable on the First day of each month commencing May 1, 2024. (See also Paragraph 4)

[X] If this box is checked, there are provisions in this Lease for the Base Rent to be adjusted. See Paragraph 50.

1.6 Lessee's Share of Common Area Operating Expenses: percent (%) ("Lessee's Share"). In the event that the size of the Premises and/or the Project are modified during the term of this Lease, Lessor shall recalculate Lessee's Share to reflect such modification.

1.7 Base Rent and Other Monies Paid Upon Execution:

(a) Base Rent: \$1,200.00 for the period May 1 - May 31, 2024.

(b) Common Area Operating Expenses: The current estimate for the period N/A is.

(c) Security Deposit: \$1,250.00 ("Security Deposit"). (See also Paragraph 5)

(d) Other: for.

(e) Total Due Upon Execution of this Lease: \$2,450.00.

1.8 Agreed Use: General Office. (See also Paragraph 6)

1.9 Insuring Party. Lessor is the "Insuring Party". (See also Paragraph 8)

1.10 Real Estate Brokers. (See also Paragraphs 15 and 25)

(a) Representation. Each Party acknowledges receiving a Disclosure Regarding Real Estate Agency Relationship, confirms and consents to the following agency relationships in this Lease with the following real estate brokers ("Broker(s)") and/or their agents ("Agent(s)"):

Lessor's Brokerage Firm Lee & Associates CRE - Palm Desert License No. 01911964 is the broker of (check one): [X] the Lessor; or [] both the Lessee and Lessor (dual agent).

Lessor's Agent Dave Rapp License No. 01715126 is (check one): [X] the Lessor's Agent (salesperson or broker associate); or [] both the Lessee's Agent and the Lessor's Agent (dual agent).

Lessee's Brokerage Firm License No. is the broker of (check one): [] the Lessee; or [] both the Lessee and Lessor (dual agent).

Lessee's Agent License No. is (check one): [] the Lessee's Agent (salesperson or broker associate); or [] both the Lessee's Agent and the Lessor's Agent (dual agent).

(b) Payment to Brokers. Upon execution and delivery of this Lease by both Parties, Lessor shall pay to the Brokers the brokerage fee agreed to in a separate written agreement (or if there is no such agreement, the sum of -or- % of the total Base Rent) for the brokerage services rendered by the Brokers.

1.11 Guarantor. The obligations of the Lessee under this Lease are to be guaranteed by ("Guarantor"). (See also Paragraph 37)

1.12 Attachments. Attached hereto are the following, all of which constitute a part of this Lease:

- [] an Addendum consisting of Paragraphs through ;
[] a site plan depicting the Premises;
[] a site plan depicting the Project;
[] a current set of the Rules and Regulations for the Project;
[] a current set of the Rules and Regulations adopted by the owners' association;
[] a Work Letter;

INITIALS

INITIALS

other (specify): Agency Disclosure, Rent Adjustment

2. Premises.

2.1 Letting. Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises, for the term, at the rental, and upon all of the terms, covenants and conditions set forth in this Lease. While the approximate square footage of the Premises may have been used in the marketing of the Premises for purposes of comparison, the Base Rent stated herein is NOT tied to square footage and is not subject to adjustment should the actual size be determined to be different. **NOTE: Lessee is advised to verify the actual size prior to executing this Lease.**

2.2 Condition. Lessor shall deliver that portion of the Premises contained within the Building ("Unit") to Lessee broom clean and free of debris on the Commencement Date or the Early Possession Date, whichever first occurs ("Start Date"), and, so long as the required service contracts described in Paragraph 7.1(b) below are obtained by Lessee and in effect within thirty days following the Start Date, warrants that the existing electrical, plumbing, fire sprinkler, lighting, heating, ventilating and air conditioning systems ("HVAC"), loading doors, sump pumps, if any, and all other such elements in the Unit, other than those constructed by Lessee, shall be in good operating condition on said date, that the structural elements of the roof, bearing walls and foundation of the Unit shall be free of material defects, and that the Unit does not contain hazardous levels of any mold or fungi defined as toxic under applicable state or federal law. If a non-compliance with such warranty exists as of the Start Date, or if one of such systems or elements should malfunction or fail within the appropriate warranty period, Lessor shall, as Lessor's sole obligation with respect to such matter, except as otherwise provided in this Lease, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, malfunction or failure, rectify same at Lessor's expense. The warranty periods shall be as follows: (i) 6 months as to the HVAC systems, and (ii) 30 days as to the remaining systems and other elements of the Unit. If Lessee does not give Lessor the required notice within the appropriate warranty period, correction of any such non-compliance, malfunction or failure shall be the obligation of Lessee at Lessee's sole cost and expense (except for the repairs to the fire sprinkler systems, roof, foundations, and/or bearing walls - see Paragraph 7). Lessor also warrants, that unless otherwise specified in writing, Lessor is unaware of (i) any recorded Notices of Default affecting the Premise; (ii) any delinquent amounts due under any loan secured by the Premises; and (iii) any bankruptcy proceeding affecting the Premises.

2.3 Compliance. Lessor warrants that to the best of its knowledge the improvements on the Premises and the Common Areas comply with the building codes, applicable laws, covenants or restrictions of record, regulations, and ordinances ("Applicable Requirements") that were in effect at the time that each improvement, or portion thereof, was constructed. Said warranty does not apply to the use to which Lessee will put the Premises, modifications which may be required by the Americans with Disabilities Act or any similar laws as a result of Lessee's use (see Paragraph 49), or to any Alterations or Utility Installations (as defined in Paragraph 7.3(a)) made or to be made by Lessee. **NOTE: Lessee is responsible for determining whether or not the Applicable Requirements, and especially the zoning are appropriate for Lessee's intended use, and acknowledges that past uses of the Premises may no longer be allowed.** If the Premises do not comply with said warranty, Lessor shall, except as otherwise provided, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, rectify the same at Lessor's expense. If Lessee does not give Lessor written notice of a non-compliance with this warranty within 6 months following the Start Date, correction of that non-compliance shall be the obligation of Lessee at Lessee's sole cost and expense. If the Applicable Requirements are hereafter changed so as to require during the term of this Lease the construction of an addition to or an alteration of the Unit, Premises and/or Building, the remediation of any Hazardous Substance, or the reinforcement or other physical modification of the Unit, Premises and/or Building ("Capital Expenditure"), Lessor and Lessee shall allocate the cost of such work as follows:

(a) Subject to Paragraph 2.3(c) below, if such Capital Expenditures are required as a result of the specific and unique use of the Premises by Lessee as compared with uses by tenants in general, Lessee shall be fully responsible for the cost thereof, provided, however, that if such Capital Expenditure is required during the last 2 years of this Lease and the cost thereof exceeds 6 months' Base Rent, Lessee may instead terminate this Lease unless Lessor notifies Lessee, in writing, within 10 days after receipt of Lessee's termination notice that Lessor has elected to pay the difference between the actual cost thereof and the amount equal to 6 months' Base Rent. If Lessee elects termination, Lessee shall immediately cease the use of the Premises which requires such Capital Expenditure and deliver to Lessor written notice specifying a termination date at least 90 days thereafter. Such termination date shall, however, in no event be earlier than the last day that Lessee could legally utilize the Premises without commencing such Capital Expenditure.

(b) If such Capital Expenditure is not the result of the specific and unique use of the Premises by Lessee (such as, governmentally mandated seismic modifications), then Lessor shall pay for such Capital Expenditure and Lessee shall only be obligated to pay, each month during the remainder of the term of this Lease or any extension thereof, on the date that on which the Base Rent is due, an amount equal to 1/144th of the portion of such costs reasonably attributable to the Premises. Lessee shall pay Interest on the balance but may prepay its obligation at any time. If, however, such Capital Expenditure is required during the last 2 years of this Lease or if Lessor reasonably determines that it is not economically feasible to pay its share thereof, Lessor shall have the option to terminate this Lease upon 90 days prior written notice to Lessee unless Lessee notifies Lessor, in writing, within 10 days after receipt of Lessor's termination notice that Lessee will pay for such Capital Expenditure. If Lessor does not elect to terminate, and fails to tender its share of any such Capital Expenditure, Lessee may advance such funds and deduct same, with Interest, from Rent until Lessor's share of such costs have been fully paid. If Lessee is unable to finance Lessor's share, or if the balance of the Rent due and payable for the remainder of this Lease is not sufficient to fully reimburse Lessee on an offset basis, Lessee shall have the right to terminate this Lease upon 30 days written notice to Lessor.

(c) Notwithstanding the above, the provisions concerning Capital Expenditures are intended to apply only to non-voluntary, unexpected, and new Applicable Requirements. If the Capital Expenditures are instead triggered by Lessee as a result of an actual or proposed change in use, change in intensity of use, or modification to the Premises then, and in that event, Lessee shall either: (i) immediately cease such changed use or intensity of use and/or take such other steps as may be necessary to eliminate the requirement for such Capital Expenditure, or (ii) complete such Capital Expenditure at its own expense. Lessee shall not have any right to terminate this Lease.

2.4 Acknowledgements. Lessee acknowledges that: (a) it has been given an opportunity to inspect and measure the Premises; (b) it has been advised by Lessor and/or Brokers to satisfy itself with respect to the size and condition of the Premises (including but not limited to the electrical, HVAC and fire sprinkler systems, security, environmental aspects, and compliance with Applicable Requirements and the Americans with Disabilities Act), and their suitability for Lessee's intended use; (c) Lessee has made such investigation as it deems necessary with reference to such matters and assumes all responsibility therefor as the same relate to its occupancy of the Premises; (d) it is not relying on any representation as to the size of the Premises made by Brokers or Lessor; (e) the square footage of the Premises was not material to Lessee's decision to lease the Premises and pay the Rent stated herein; and (f) neither Lessor, Lessor's agents, nor Brokers have made any oral or written representations or warranties with respect to said matters other than as set forth in this Lease. In addition, Lessor acknowledges that: (i) Brokers have made no representations, promises or warranties concerning Lessee's ability to honor the Lease or suitability to occupy the Premises, and (ii) it is Lessor's sole responsibility to investigate the financial capability and/or suitability of all proposed tenants.

2.5 Lessee as Prior Owner/Occupant. The warranties made by Lessor in Paragraph 2 shall be of no force or effect if immediately prior to the Start Date Lessee was the owner or occupant of the Premises. In such event, Lessee shall be responsible for any necessary corrective work.

2.6 Vehicle Parking. Lessee shall be entitled to use the number of Parking Spaces specified in Paragraph 1.2(b) on those portions of the Common Areas

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designated from time to time by Lessor for parking. Lessee shall not use more parking spaces than said number. Said parking spaces shall be used for parking by vehicles no larger than full-size passenger automobiles or pick-up trucks, herein called "**Permitted Size Vehicles**." Lessor may regulate the loading and unloading of vehicles by adopting Rules and Regulations as provided in Paragraph 2.9. No vehicles other than Permitted Size Vehicles may be parked in the Common Area without the prior written permission of Lessor. In addition:

- (a) Lessee shall not permit or allow any vehicles that belong to or are controlled by Lessee or Lessee's employees, suppliers, shippers, customers, contractors or invitees to be loaded, unloaded, or parked in areas other than those designated by Lessor for such activities.
- (b) Lessee shall not service or store any vehicles in the Common Areas.
- (c) If Lessee permits or allows any of the prohibited activities described in this Paragraph 2.6, then Lessor shall have the right, without notice, in addition to such other rights and remedies that it may have, to remove or tow away the vehicle involved and charge the cost to Lessee, which cost shall be immediately payable upon demand by Lessor.

2.7 Common Areas - Definition. The term "**Common Areas**" is defined as all areas and facilities outside the Premises and within the exterior boundary line of the Project and interior utility raceways and installations within the Unit that are provided and designated by the Lessor from time to time for the general non-exclusive use of Lessor, Lessee and other tenants of the Project and their respective employees, suppliers, shippers, customers, contractors and invitees, including parking areas, loading and unloading areas, trash areas, roofs, roadways, walkways, driveways and landscaped areas.

2.8 Common Areas - Lessee's Rights. Lessor grants to Lessee, for the benefit of Lessee and its employees, suppliers, shippers, contractors, customers and invitees, during the term of this Lease, the non-exclusive right to use, in common with others entitled to such use, the Common Areas as they exist from time to time, subject to any rights, powers, and privileges reserved by Lessor under the terms hereof or under the terms of any rules and regulations or restrictions governing the use of the Project. Under no circumstances shall the right herein granted to use the Common Areas be deemed to include the right to store any property, temporarily or permanently, in the Common Areas. Any such storage shall be permitted only by the prior written consent of Lessor or Lessor's designated agent, which consent may be revoked at any time. In the event that any unauthorized storage shall occur, then Lessor shall have the right, without notice, in addition to such other rights and remedies that it may have, to remove the property and charge the cost to Lessee, which cost shall be immediately payable upon demand by Lessor.

2.9 Common Areas - Rules and Regulations. Lessor or such other person(s) as Lessor may appoint shall have the exclusive control and management of the Common Areas and shall have the right, from time to time, to establish, modify, amend and enforce reasonable rules and regulations ("**Rules and Regulations**") for the management, safety, care, and cleanliness of the grounds, the parking and unloading of vehicles and the preservation of good order, as well as for the convenience of other occupants or tenants of the Building and the Project and their invitees. Lessee agrees to abide by and conform to all such Rules and Regulations, and shall use its best efforts to cause its employees, suppliers, shippers, customers, contractors and invitees to so abide and conform. Lessor shall not be responsible to Lessee for the non-compliance with said Rules and Regulations by other tenants of the Project.

2.10 Common Areas - Changes. Lessor shall have the right, in Lessor's sole discretion, from time to time:

- (a) To make changes to the Common Areas, including, without limitation, changes in the location, size, shape and number of driveways, entrances, parking spaces, parking areas, loading and unloading areas, ingress, egress, direction of traffic, landscaped areas, walkways and utility raceways;
- (b) To close temporarily any of the Common Areas for maintenance purposes so long as reasonable access to the Premises remains available;
- (c) To designate other land outside the boundaries of the Project to be a part of the Common Areas;
- (d) To add additional buildings and improvements to the Common Areas;
- (e) To use the Common Areas while engaged in making additional improvements, repairs or alterations to the Project, or any portion thereof; and
- (f) To do and perform such other acts and make such other changes in, to or with respect to the Common Areas and Project as Lessor may, in the exercise of sound business judgment, deem to be appropriate.

3. Term.

3.1 Term. The Commencement Date, Expiration Date and Original Term of this Lease are as specified in Paragraph 1.3.

3.2 Early Possession. Any provision herein granting Lessee Early Possession of the Premises is subject to and conditioned upon the Premises being available for such possession prior to the Commencement Date. Any grant of Early Possession only conveys a non-exclusive right to occupy the Premises. If Lessee totally or partially occupies the Premises prior to the Commencement Date, the obligation to pay Base Rent shall be abated for the period of such Early Possession. All other terms of this Lease (including but not limited to the obligations to pay Lessee's Share of Common Area Operating Expenses, Real Property Taxes and insurance premiums and to maintain the Premises) shall be in effect during such period. Any such Early Possession shall not affect the Expiration Date.

3.3 Delay In Possession. Lessor agrees to use commercially reasonable efforts to deliver exclusive possession of the Premises to Lessee by the Commencement Date. If, despite said efforts, Lessor is unable to deliver possession by such date, Lessor shall not be subject to any liability therefor, nor shall such failure affect the validity of this Lease or change the Expiration Date. Lessee shall not, however, be obligated to pay Rent or perform its other obligations until Lessor delivers possession of the Premises and any period of rent abatement that Lessee would otherwise have enjoyed shall run from the date of delivery of possession and continue for a period equal to what Lessee would otherwise have enjoyed under the terms hereof, but minus any days of delay caused by the acts or omissions of Lessee. If possession is not delivered within 60 days after the Commencement Date, as the same may be extended under the terms of any Work Letter executed by Parties, Lessee may, at its option, by notice in writing within 10 days after the end of such 60 day period, cancel this Lease, in which event the Parties shall be discharged from all obligations hereunder. If such written notice is not received by Lessor within said 10 day period, Lessee's right to cancel shall terminate. If possession of the Premises is not delivered within 120 days after the Commencement Date, this Lease shall terminate unless other agreements are reached between Lessor and Lessee, in writing.

3.4 Lessee Compliance. Lessor shall not be required to tender possession of the Premises to Lessee until Lessee complies with its obligation to provide evidence of insurance (Paragraph 8.5). Pending delivery of such evidence, Lessee shall be required to perform all of its obligations under this Lease from and after the Start Date, including the payment of Rent, notwithstanding Lessor's election to withhold possession pending receipt of such evidence of insurance. Further, if Lessee is required to perform any other conditions prior to or concurrent with the Start Date, the Start Date shall occur but Lessor may elect to withhold possession until such conditions are satisfied.

4. Rent.

4.1 Rent Defined. All monetary obligations of Lessee to Lessor under the terms of this Lease (except for the Security Deposit) are deemed to be rent ("**Rent**").

~~**4.2 Common Area Operating Expenses.** Lessee shall pay to Lessor during the term hereof, in addition to the Base Rent, Lessee's Share (as specified in Paragraph 1.6) of all Common Area Operating Expenses, as hereinafter defined, during each calendar year of the term of this Lease, in accordance with the following provisions:~~

- ~~(a) The following costs relating to the ownership and operation of the Project are defined as "**Common Area Operating Expenses**":~~
 - ~~(i) Costs relating to the operation, repair and maintenance, in neat, clean, good order and condition, but not the replacement (see subparagraph (e)), of the following:~~

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~~(aa) The Common Areas and Common Area improvements, including parking areas, loading and unloading areas, trash areas, roadways, parkways, walkways, driveways, landscaped areas, bumpers, irrigation systems, Common Area lighting facilities, fences and gates, elevators, roofs, exterior walls of the buildings, building systems and roof drainage systems.~~

~~(bb) Exterior signs and any tenant directories.~~

~~(cc) Any fire sprinkler systems.~~

~~(dd) All other areas and improvements that are within the exterior boundaries of the Project but outside of the Premises and/or any other space occupied by a tenant.~~

~~(ii) The cost of water, gas, electricity and telephone to service the Common Areas and any utilities not separately metered.~~

~~(iii) The cost of trash disposal, pest control services, property management, security services, owners' association dues and fees, the cost to repaint the exterior of any structures and the cost of any environmental inspections.~~

~~(iv) Reserves set aside for maintenance and repair of Common Areas and Common Area equipment.~~

~~(v) Any increase above the Base Real Property Taxes (as defined in Paragraph 10).~~

~~(vi) Any "Insurance Cost Increase" (as defined in Paragraph 8).~~

~~(vii) Any deductible portion of an insured loss concerning the Building or the Common Areas.~~

~~(viii) Auditors', accountants' and attorneys' fees and costs related to the operation, maintenance, repair and replacement of the Project.~~

~~(ix) The cost of any capital improvement to the Building or the Project not covered under the provisions of Paragraph 2.3 provided; however, that Lessor shall allocate the cost of any such capital improvement over a 12 year period and Lessee shall not be required to pay more than Lessee's Share of 1/144th of the cost of such capital improvement in any given month. Lessee shall pay Interest on the unamortized balance but may prepay its obligation at any time.~~

~~(x) The cost of any other services to be provided by Lessor that are stated elsewhere in this Lease to be a Common Area Operating Expense.~~

~~(b) Any Common Area Operating Expenses and Real Property Taxes that are specifically attributable to the Unit, the Building or to any other building in the Project or to the operation, repair and maintenance thereof, shall be allocated entirely to such Unit, Building, or other building. However, any Common Area Operating Expenses and Real Property Taxes that are not specifically attributable to the Building or to any other building or to the operation, repair and maintenance thereof, shall be equitably allocated by Lessor to all buildings in the Project.~~

~~(c) The inclusion of the improvements, facilities and services set forth in Subparagraph 4.2(a) shall not be deemed to impose an obligation upon Lessor to either have said improvements or facilities or to provide those services unless the Project already has the same, Lessor already provides the services, or Lessor has agreed elsewhere in this Lease to provide the same or some of them.~~

~~(d) Lessee's Share of Common Area Operating Expenses is payable monthly on the same day as the Base Rent is due hereunder. The amount of such payments shall be based on Lessor's estimate of the annual Common Area Operating Expenses. Within 60 days after written request (but not more than once each year) Lessor shall deliver to Lessee a reasonably detailed statement showing Lessee's Share of the actual Common Area Operating Expenses for the preceding year. If Lessee's payments during such year exceed Lessee's Share, Lessor shall credit the amount of such over-payment against Lessee's future payments. If Lessee's payments during such year were less than Lessee's Share, Lessee shall pay to Lessor the amount of the deficiency within 10 days after delivery by Lessor to Lessee of the statement.~~

~~(e) Common Area Operating Expenses shall not include the cost of replacing equipment or capital components such as the roof, foundations, exterior walls or Common Area capital improvements, such as the parking lot paving, elevators, fences that have a useful life for accounting purposes of 5 years or more.~~

~~(f) Common Area Operating Expenses shall not include any expenses paid by any tenant directly to third parties, or as to which Lessor is otherwise reimbursed by any third party, other tenant, or insurance proceeds.~~

4.3 Payment. Lessee shall cause payment of Rent to be received by Lessor in lawful money of the United States, without offset or deduction (except as specifically permitted in this Lease), on or before the day on which it is due. All monetary amounts shall be rounded to the nearest whole dollar. In the event that any statement or invoice prepared by Lessor is inaccurate such inaccuracy shall not constitute a waiver and Lessee shall be obligated to pay the amount set forth in this Lease. Rent for any period during the term hereof which is for less than one full calendar month shall be prorated based upon the actual number of days of said month. Payment of Rent shall be made to Lessor at its address stated herein or to such other persons or place as Lessor may from time to time designate in writing. Acceptance of a payment which is less than the amount then due shall not be a waiver of Lessor's rights to the balance of such Rent, regardless of Lessor's endorsement of any check so stating. In the event that any check, draft, or other instrument of payment given by Lessee to Lessor is dishonored for any reason, Lessee agrees to pay to Lessor the sum of \$25 in addition to any Late Charge and Lessor, at its option, may require all future Rent be paid by cashier's check. Payments will be applied first to accrued late charges and attorney's fees, second to accrued interest, then to Base Rent and Common Area Operating Expenses, and any remaining amount to any other outstanding charges or costs.

5. Security Deposit. Lessee shall deposit with Lessor upon execution hereof the Security Deposit as security for Lessee's faithful performance of its obligations under this Lease. If Lessee fails to pay Rent, or otherwise Defaults under this Lease, Lessor may use, apply or retain all or any portion of said Security Deposit for the payment of any amount already due Lessor, for Rents which will be due in the future, and/ or to reimburse or compensate Lessor for any liability, expense, loss or damage which Lessor may suffer or incur by reason thereof. If Lessor uses or applies all or any portion of the Security Deposit, Lessee shall within 10 days after written request therefor deposit monies with Lessor sufficient to restore said Security Deposit to the full amount required by this Lease. If the Base Rent increases during the term of this Lease, Lessee shall, upon written request from Lessor, deposit additional monies with Lessor so that the total amount of the Security Deposit shall at all times bear the same proportion to the increased Base Rent as the initial Security Deposit bore to the initial Base Rent. Should the Agreed Use be amended to accommodate a material change in the business of Lessee or to accommodate a sublessee or assignee, Lessor shall have the right to increase the Security Deposit to the extent necessary, in Lessor's reasonable judgment, to account for any increased wear and tear that the Premises may suffer as a result thereof. If a change in control of Lessee occurs during this Lease and following such change the financial condition of Lessee is, in Lessor's reasonable judgment, significantly reduced, Lessee shall deposit such additional monies with Lessor as shall be sufficient to cause the Security Deposit to be at a commercially reasonable level based on such change in financial condition. Lessor shall not be required to keep the Security Deposit separate from its general accounts. Within 90 days after the expiration or termination of this Lease, Lessor shall return that portion of the Security Deposit not used or applied by Lessor. Lessor shall upon written request provide Lessee with an accounting showing how that portion of the Security Deposit that was not returned was applied. No part of the Security Deposit shall be considered to be held in trust, to bear interest or to be prepayment for any monies to be paid by Lessee under this Lease. THE SECURITY DEPOSIT SHALL NOT BE USED BY LESSEE IN LIEU OF PAYMENT OF THE LAST MONTH'S RENT.

6. Use.

6.1 Use. Lessee shall use and occupy the Premises only for the Agreed Use, or any other legal use which is reasonably comparable thereto, and for no other purpose. Lessee shall not use or permit the use of the Premises in a manner that is unlawful, creates damage, waste or a nuisance, or that disturbs occupants of or causes damage to neighboring premises or properties. Other than guide, signal and seeing eye dogs, Lessee shall not keep or allow in the Premises any pets, animals,

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birds, fish, or reptiles. Lessor shall not unreasonably withhold or delay its consent to any written request for a modification of the Agreed Use, so long as the same will not impair the structural integrity of the Building or the mechanical or electrical systems therein, and/or is not significantly more burdensome to the Project. If Lessor elects to withhold consent, Lessor shall within 7 days after such request give written notification of same, which notice shall include an explanation of Lessor's objections to the change in the Agreed Use.

6.2 Hazardous Substances.

(a) **Reportable Uses Require Consent.** The term "Hazardous Substance" as used in this Lease shall mean any product, substance, or waste whose presence, use, manufacture, disposal, transportation, or release, either by itself or in combination with other materials expected to be on the Premises, is either: (i) potentially injurious to the public health, safety or welfare, the environment or the Premises; (ii) regulated or monitored by any governmental authority, or (iii) a basis for potential liability of Lessor to any governmental agency or third party under any applicable statute or common law theory. Hazardous Substances shall include, but not be limited to, hydrocarbons, petroleum, gasoline, and/or crude oil or any products, byproducts or fractions thereof. Lessee shall not engage in any activity in or on the Premises which constitutes a Reportable Use of Hazardous Substances without the express prior written consent of Lessor and timely compliance (at Lessee's expense) with all Applicable Requirements. "Reportable Use" shall mean (i) the installation or use of any above or below ground storage tank; (ii) the generation, possession, storage, use, transportation, or disposal of a Hazardous Substance that requires a permit from, or with respect to which a report, notice, registration or business plan is required to be filed with, any governmental authority, and/or (iii) the presence at the Premises of a Hazardous Substance with respect to which any Applicable Requirements requires that a notice be given to persons entering or occupying the Premises or neighboring properties. Notwithstanding the foregoing, Lessee may use any ordinary and customary materials reasonably required to be used in the normal course of the Agreed Use, ordinary office supplies (copier toner, liquid paper, glue, etc.) and common household cleaning materials, so long as such use is in compliance with all Applicable Requirements, is not a Reportable Use, and does not expose the Premises or neighboring property to any meaningful risk of contamination or damage or expose Lessor to any liability therefor. In addition, Lessor may condition its consent to any Reportable Use upon receiving such additional assurances as Lessor reasonably deems necessary to protect itself, the public, the Premises and/or the environment against damage, contamination, injury and/or liability, including, but not limited to, the installation (and removal on or before Lease expiration or termination) of protective modifications (such as concrete encasements) and/or increasing the Security Deposit.

(b) **Duty to Inform Lessor.** If Lessee knows, or has reasonable cause to believe, that a Hazardous Substance has come to be located in, on, under or about the Premises, other than as previously consented to by Lessor, Lessee shall immediately give written notice of such fact to Lessor, and provide Lessor with a copy of any report, notice, claim or other documentation which it has concerning the presence of such Hazardous Substance.

(c) **Lessee Remediation.** Lessee shall not cause or permit any Hazardous Substance to be spilled or released in, on, under, or about the Premises (including through the plumbing or sanitary sewer system) and shall promptly, at Lessee's expense, comply with all Applicable Requirements and take all investigatory and/or remedial action reasonably recommended, whether or not formally ordered or required, for the cleanup of any contamination of, and for the maintenance, security and/or monitoring of the Premises or neighboring properties, that was caused or materially contributed to by Lessee, or pertaining to or involving any Hazardous Substance brought onto the Premises during the term of this Lease, by or for Lessee, or any third party.

(d) **Lessee Indemnification.** Lessee shall indemnify, defend and hold Lessor, its agents, employees, lenders and ground lessor, if any, harmless from and against any and all loss of rents and/or damages, liabilities, judgments, claims, expenses, penalties, and attorneys' fees arising out of or involving any Hazardous Substance brought onto the Premises by or for Lessee, or any third party (provided, however, that Lessee shall have no liability under this Lease with respect to underground migration of any Hazardous Substance under the Premises from areas outside of the Project not caused or contributed to by Lessee). Lessee's obligations shall include, but not be limited to, the effects of any contamination or injury to person, property or the environment created or suffered by Lessee, and the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease. No termination, cancellation or release agreement entered into by Lessor and Lessee shall release Lessee from its obligations under this Lease with respect to Hazardous Substances, unless specifically so agreed by Lessor in writing at the time of such agreement.

(e) **Lessor Indemnification.** Except as otherwise provided in paragraph 8.7, Lessor and its successors and assigns shall indemnify, defend, reimburse and hold Lessee, its employees and lenders, harmless from and against any and all environmental damages, including the cost of remediation, which are suffered as a direct result of Hazardous Substances on the Premises prior to Lessee taking possession or which are caused by the gross negligence or willful misconduct of Lessor, its agents or employees. Lessor's obligations, as and when required by the Applicable Requirements, shall include, but not be limited to, the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease.

(f) **Investigations and Remediations.** Lessor shall retain the responsibility and pay for any investigations or remediation measures required by governmental entities having jurisdiction with respect to the existence of Hazardous Substances on the Premises prior to the Lessee taking possession, unless such remediation measure is required as a result of Lessee's use (including "Alterations", as defined in paragraph 7.3(a) below) of the Premises, in which event Lessee shall be responsible for such payment. Lessee shall cooperate fully in any such activities at the request of Lessor, including allowing Lessor and Lessor's agents to have reasonable access to the Premises at reasonable times in order to carry out Lessor's investigative and remedial responsibilities.

(g) **Lessor Termination Option.** If a Hazardous Substance Condition (see Paragraph 9.1(e)) occurs during the term of this Lease, unless Lessee is legally responsible therefor (in which case Lessee shall make the investigation and remediation thereof required by the Applicable Requirements and this Lease shall continue in full force and effect, but subject to Lessor's rights under Paragraph 6.2(d) and Paragraph 13), Lessor may, at Lessor's option, either (i) investigate and remediate such Hazardous Substance Condition, if required, as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) if the estimated cost to remediate such condition exceeds 12 times the then monthly Base Rent or \$100,000, whichever is greater, give written notice to Lessee, within 30 days after receipt by Lessor of knowledge of the occurrence of such Hazardous Substance Condition, of Lessor's desire to terminate this Lease as of the date 60 days following the date of such notice. In the event Lessor elects to give a termination notice, Lessee may, within 10 days thereafter, give written notice to Lessor of Lessee's commitment to pay the amount by which the cost of the remediation of such Hazardous Substance Condition exceeds an amount equal to 12 times the then monthly Base Rent or \$100,000, whichever is greater. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days following such commitment. In such event, this Lease shall continue in full force and effect, and Lessor shall proceed to make such remediation as soon as reasonably possible after the required funds are available. If Lessee does not give such notice and provide the required funds or assurance thereof within the time provided, this Lease shall terminate as of the date specified in Lessor's notice of termination.

6.3 Lessee's Compliance with Applicable Requirements. Except as otherwise provided in this Lease, Lessee shall, at Lessee's sole expense, fully, diligently and in a timely manner, materially comply with all Applicable Requirements, the requirements of any applicable fire insurance underwriter or rating bureau, and the recommendations of Lessor's engineers and/or consultants which relate in any manner to the Premises, without regard to whether said Applicable Requirements are now in effect or become effective after the Start Date. Lessee shall, within 10 days after receipt of Lessor's written request, provide Lessor with copies of all permits and other documents, and other information evidencing Lessee's compliance with any Applicable Requirements specified by Lessor, and shall immediately upon receipt, notify Lessor in writing (with copies of any documents involved) of any threatened or actual claim, notice, citation, warning, complaint or report pertaining to or involving the failure of Lessee or the Premises to comply with any Applicable Requirements. Likewise, Lessee shall immediately give written notice to Lessor of: (i) any water damage to the Premises and any suspected seepage, pooling, dampness or other condition conducive to the production of mold; or (ii) any mustiness or

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other odors that might indicate the presence of mold in the Premises.

6.4 **Inspection; Compliance.** Lessor and Lessor's "Lender" (as defined in Paragraph 30) and consultants authorized by Lessor shall have the right to enter into Premises at any time in the case of an emergency, and otherwise at reasonable times after reasonable notice, for the purpose of inspecting and/or testing the condition of the Premises and/or for verifying compliance by Lessee with this Lease. The cost of any such inspections shall be paid by Lessor, unless a violation of Applicable Requirements, or a Hazardous Substance Condition (see Paragraph 9.1(e)) is found to exist or be imminent, or the inspection is requested or ordered by a governmental authority. In such case, Lessee shall upon request reimburse Lessor for the cost of such inspection, so long as such inspection is reasonably related to the violation or contamination. In addition, Lessee shall provide copies of all relevant material safety data sheets (MSDS) to Lessor within 10 days of the receipt of written request therefor. Lessee acknowledges that any failure on its part to allow such inspections or testing will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, should the Lessee fail to allow such inspections and/or testing in a timely fashion the Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or \$100, whichever is greater for the remainder to the Lease. The Parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to allow such inspection and/or testing. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to such failure nor prevent the exercise of any of the other rights and remedies granted hereunder.

7. **Maintenance; Repairs; Utility Installations; Trade Fixtures and Alterations.**

7.1 **Lessee's Obligations.**

(a) **In General.** Subject to the provisions of Paragraph 2.2 (Condition), 2.3 (Compliance), 6.3 (Lessee's Compliance with Applicable Requirements), 7.2 (Lessor's Obligations), 9 (Damage or Destruction), and 14 (Condemnation), Lessee shall, at Lessee's sole expense, keep the Premises, Utility Installations (intended for Lessee's exclusive use, no matter where located), and Alterations in good order, condition and repair (whether or not the portion of the Premises requiring repairs, or the means of repairing the same, are reasonably or readily accessible to Lessee, and whether or not the need for such repairs occurs as a result of Lessee's use, any prior use, the elements or the age of such portion of the Premises), including, but not limited to, all equipment or facilities, such as plumbing, HVAC equipment, electrical, lighting facilities, boilers, pressure vessels, fixtures, interior walls, interior surfaces of exterior walls, ceilings, floors, windows, doors, plate glass, and skylights but excluding any items which are the responsibility of Lessor pursuant to Paragraph 7.2. Lessee, in keeping the Premises in good order, condition and repair, shall exercise and perform good maintenance practices, specifically including the procurement and maintenance of the service contracts required by Paragraph 7.1(b) below. Lessee's obligations shall include restorations, replacements or renewals when necessary to keep the Premises and all improvements thereon or a part thereof in good order, condition and state of repair.

HVAC: Lessee is responsible for HVAC service maintenance twice per year (Est. \$65/service). Lessee responsible for first \$250 of any HVAC repair in any calendar year, Lessor responsible for repair costs above \$250 per calendar year.

(b) **Service Contracts.** Lessee shall, at Lessee's sole expense, procure and maintain contracts, with copies to Lessor, in customary form and substance for, and with contractors specializing and experienced in the maintenance of the following equipment and improvements, if any, if and when installed on the Premises: (i) HVAC equipment, (ii) boiler and pressure vessels, and (iii) clarifiers. However, Lessor reserves the right, upon notice to Lessee, to procure and maintain any or all of such service contracts, and Lessee shall reimburse Lessor, upon demand, for the cost thereof.

(c) **Failure to Perform.** If Lessee fails to perform Lessee's obligations under this Paragraph 7.1, Lessor may enter upon the Premises after 10 days' prior written notice to Lessee (except in the case of an emergency, in which case no notice shall be required), perform such obligations on Lessee's behalf, and put the Premises in good order, condition and repair, and Lessee shall promptly pay to Lessor a sum equal to 115% of the cost thereof.

(d) **Replacement.** Subject to Lessee's indemnification of Lessor as set forth in Paragraph 8.7 below, and without relieving Lessee of liability resulting from Lessee's failure to exercise and perform good maintenance practices, if an item described in Paragraph 7.1(b) cannot be repaired other than at a cost which is in excess of 50% of the cost of replacing such item, then such item shall be replaced by Lessor, and the cost thereof shall be prorated between the Parties and Lessee shall only be obligated to pay, each month during the remainder of the term of this Lease or any extension thereof, on the date on which Base Rent is due, an amount equal to the product of multiplying the cost of such replacement by a fraction, the numerator of which is one, and the denominator of which is 144 (i.e. 1/144th of the cost per month). Lessee shall pay interest on the unamortized balance but may prepay its obligation at any time.

7.2 **Lessor's Obligations.** Subject to the provisions of Paragraphs 2.2 (Condition), 2.3 (Compliance), 4.2 (Common Area Operating Expenses), 6 (Use), 7.1 (Lessee's Obligations), 9 (Damage or Destruction) and 14 (Condemnation), Lessor, subject to reimbursement pursuant to Paragraph 4.2, shall keep in good order, condition and repair the foundations, exterior walls, structural condition of interior bearing walls, exterior roof, fire sprinkler system, Common Area fire alarm and/or smoke detection systems, fire hydrants, parking lots, walkways, parkways, driveways, landscaping, fences, signs and utility systems serving the Common Areas and all parts thereof, as well as providing the services for which there is a Common Area Operating Expense pursuant to Paragraph 4.2. Lessor shall not be obligated to paint the exterior or interior surfaces of exterior walls nor shall Lessor be obligated to maintain, repair or replace windows, doors or plate glass of the Premises.

7.3 **Utility Installations; Trade Fixtures; Alterations.**

(a) **Definitions.** The term "Utility Installations" refers to all floor and window coverings, air and/or vacuum lines, power panels, electrical distribution, security and fire protection systems, communication cabling, lighting fixtures, HVAC equipment, plumbing, and fencing in or on the Premises. The term "Trade Fixtures" shall mean Lessee's machinery and equipment that can be removed without doing material damage to the Premises. The term "Alterations" shall mean any modification of the improvements, other than Utility Installations or Trade Fixtures, whether by addition or deletion. "Lessee Owned Alterations and/or Utility Installations" are defined as Alterations and/or Utility Installations made by Lessee that are not yet owned by Lessor pursuant to Paragraph 7.4(a).

(b) **Consent.** Lessee shall not make any Alterations or Utility Installations to the Premises without Lessor's prior written consent. Lessee may, however, make non-structural Alterations or Utility Installations to the interior of the Premises (excluding the roof) without such consent but upon notice to Lessor, as long as they are not visible from the outside, do not involve puncturing, relocating or removing the roof or any existing walls, will not affect the electrical, plumbing, HVAC, and/or life safety systems, do not trigger the requirement for additional modifications and/or improvements to the Premises resulting from Applicable Requirements, such as compliance with Title 24, and the cumulative cost thereof during this Lease as extended does not exceed a sum equal to 3 month's Base Rent in the aggregate or a sum equal to one month's Base Rent in any one year. Notwithstanding the foregoing, Lessee shall not make or permit any roof penetrations and/or install anything on the roof without the prior written approval of Lessor. Lessor may, as a precondition to granting such approval, require Lessee to utilize a contractor chosen and/or approved by Lessor. Any Alterations or Utility Installations that Lessee shall desire to make and which require the consent of the Lessor shall be presented to Lessor in written form with detailed plans. Consent shall be deemed conditioned upon Lessee's: (i) acquiring all applicable governmental permits, (ii) furnishing Lessor with copies of both the permits and the plans and specifications prior to commencement of the work, and (iii) compliance with all conditions of said permits and other Applicable Requirements in a prompt and expeditious manner. Any Alterations or Utility Installations shall be performed in a workmanlike manner with good and sufficient materials. Lessee shall promptly upon completion furnish Lessor with as-built plans and specifications. For work which costs an amount in

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excess of one month's Base Rent, Lessor may condition its consent upon Lessee providing a lien and completion bond in an amount equal to 150% of the estimated cost of such Alteration or Utility Installation and/or upon Lessee's posting an additional Security Deposit with Lessor.

(c) **Liens; Bonds.** Lessee shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Lessee at or for use on the Premises, which claims are or may be secured by any mechanic's or materialmen's lien against the Premises or any interest therein. Lessee shall give Lessor not less than 10 days notice prior to the commencement of any work in, on or about the Premises, and Lessor shall have the right to post notices of non-responsibility. If Lessee shall contest the validity of any such lien, claim or demand, then Lessee shall, at its sole expense defend and protect itself, Lessor and the Premises against the same and shall pay and satisfy any such adverse judgment that may be rendered thereon before the enforcement thereof. If Lessor shall require, Lessee shall furnish a surety bond in an amount equal to 150% of the amount of such contested lien, claim or demand, indemnifying Lessor against liability for the same. If Lessor elects to participate in any such action, Lessee shall pay Lessor's attorneys' fees and costs.

7.4 Ownership; Removal; Surrender; and Restoration.

(a) **Ownership.** Subject to Lessor's right to require removal or elect ownership as hereinafter provided, all Alterations and Utility Installations made by Lessee shall be the property of Lessee, but considered a part of the Premises. Lessor may, at any time, elect in writing to be the owner of all or any specified part of the Lessee Owned Alterations and Utility Installations. Unless otherwise instructed per paragraph 7.4(b) hereof, all Lessee Owned Alterations and Utility Installations shall, at the expiration or termination of this Lease, become the property of Lessor and be surrendered by Lessee with the Premises.

(b) **Removal.** By delivery to Lessee of written notice from Lessor not earlier than 90 and not later than 30 days prior to the end of the term of this Lease, Lessor may require that any or all Lessee Owned Alterations or Utility Installations be removed by the expiration or termination of this Lease. Lessor may require the removal at any time of all or any part of any Lessee Owned Alterations or Utility Installations made without the required consent.

(c) **Surrender; Restoration.** Lessee shall surrender the Premises by the Expiration Date or any earlier termination date, with all of the improvements, parts and surfaces thereof broom clean and free of debris, and in good operating order, condition and state of repair, ordinary wear and tear excepted. "Ordinary wear and tear" shall not include any damage or deterioration that would have been prevented by good maintenance practice. Notwithstanding the foregoing and the provisions of Paragraph 7.1(a), if the Lessee occupies the Premises for 12 months or less, then Lessee shall surrender the Premises in the same condition as delivered to Lessee on the Start Date with NO allowance for ordinary wear and tear. Lessee shall repair any damage occasioned by the installation, maintenance or removal of Trade Fixtures, Lessee owned Alterations and/or Utility Installations, furnishings, and equipment as well as the removal of any storage tank installed by or for Lessee. Lessee shall also remove from the Premises any and all Hazardous Substances brought onto the Premises by or for Lessee, or any third party (except Hazardous Substances which were deposited via underground migration from areas outside of the Premises) to the level specified in Applicable Requirements. Trade Fixtures shall remain the property of Lessee and shall be removed by Lessee. Any personal property of Lessee not removed on or before the Expiration Date or any earlier termination date shall be deemed to have been abandoned by Lessee and may be disposed of or retained by Lessor as Lessor may desire. The failure by Lessee to timely vacate the Premises pursuant to this Paragraph 7.4(c) without the express written consent of Lessor shall constitute a holdover under the provisions of Paragraph 26 below.

8. Insurance; Indemnity.

8.1 Payment of Premium Increases.

(a) As used herein, the term "**Insurance Cost Increase**" is defined as any increase in the actual cost of the insurance applicable to the Building and/or the Project and required to be carried by Lessor, pursuant to Paragraphs 8.2(b), 8.3(a) and 8.3(b), over and above the Base Premium, as hereinafter defined, calculated on an annual basis. Insurance Cost Increase shall include, but not be limited to, requirements of the holder of a mortgage or deed of trust covering the Premises, Building and/or Project, increased valuation of the Premises, Building and/or Project, and/or a general premium rate increase. The term Insurance Cost Increase shall not, however, include any premium increases resulting from the nature of the occupancy of any other tenant of the Building. The "**Base Premium**" shall be the annual premium applicable to the 12 month period immediately preceding the Start Date. If, however, the Project was not insured for the entirety of such 12 month period, then the Base Premium shall be the lowest annual premium reasonably obtainable for the Required Insurance as of the Start Date, assuming the most nominal use possible of the Building. In no event, however, shall Lessee be responsible for any portion of the premium cost attributable to liability insurance coverage in excess of \$2,000,000 procured under Paragraph 8.2(b).

(b) Lessee shall pay any Insurance Cost Increase to Lessor pursuant to Paragraph 4.2. Premiums for policy periods commencing prior to, or extending beyond, the term of this Lease shall be prorated to coincide with the corresponding Start Date or Expiration Date.

8.2 Liability Insurance.

(a) **Carried by Lessee.** Lessee shall obtain and keep in force a Commercial General Liability policy of insurance protecting Lessee and Lessor as an additional insured against claims for bodily injury, personal injury and property damage based upon or arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be on an occurrence basis providing single limit coverage in an amount not less than \$1,000,000 per occurrence with an annual aggregate of not less than \$2,000,000. Lessee shall add Lessor as an additional insured by means of an endorsement at least as broad as the Insurance Service Organization's "Additional Insured-Managers or Lessors of Premises" Endorsement. The policy shall not contain any intra-insured exclusions as between insured persons or organizations, but shall include coverage for liability assumed under this Lease as an "**insured contract**" for the performance of Lessee's indemnity obligations under this Lease. The limits of said insurance shall not, however, limit the liability of Lessee nor relieve Lessee of any obligation hereunder. Lessee shall provide an endorsement on its liability policy(ies) which provides that its insurance shall be primary to and not contributory with any similar insurance carried by Lessor, whose insurance shall be considered excess insurance only.

(b) **Carried by Lessor.** Lessor shall maintain liability insurance as described in Paragraph 8.2(a), in addition to, and not in lieu of, the insurance required to be maintained by Lessee. Lessee shall not be named as an additional insured therein.

8.3 Property Insurance - Building, Improvements and Rental Value.

(a) **Building and Improvements.** Lessor shall obtain and keep in force a policy or policies of insurance in the name of Lessor, with loss payable to Lessor, any ground-lessor, and to any Lender insuring loss or damage to the Premises. The amount of such insurance shall be equal to the full insurable replacement cost of the Premises, as the same shall exist from time to time, or the amount required by any Lender, but in no event more than the commercially reasonable and available insurable value thereof. Lessee Owned Alterations and Utility Installations, Trade Fixtures, and Lessee's personal property shall be insured by Lessee not by Lessor. If the coverage is available and commercially appropriate, such policy or policies shall insure against all risks of direct physical loss or damage (except the perils of flood and/or earthquake unless required by a Lender), including coverage for debris removal and the enforcement of any Applicable Requirements requiring the upgrading, demolition, reconstruction or replacement of any portion of the Premises as the result of a covered loss. Said policy or policies shall also contain an agreed valuation provision in lieu of any coinsurance clause, waiver of subrogation, and inflation guard protection causing an increase in the annual property insurance coverage amount by a factor of not less than the adjusted U.S. Department of Labor Consumer Price Index for All Urban Consumers for the city nearest to where the Premises are located. If such insurance coverage has a deductible clause, the deductible amount shall not exceed \$5,000 per occurrence.

(b) **Rental Value.** Lessor shall also obtain and keep in force a policy or policies in the name of Lessor with loss payable to Lessor and any Lender, insuring the loss of the full Rent for one year with an extended period of indemnity for an additional 180 days ("Rental Value insurance"). Said insurance shall contain an

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agreed valuation provision in lieu of any coinsurance clause, and the amount of coverage shall be adjusted annually to reflect the projected Rent otherwise payable by Lessee, for the next 12 month period.

(c) **Adjacent Premises.** Lessee shall pay for any increase in the premiums for the property insurance of the Building and for the Common Areas or other buildings in the Project if said increase is caused by Lessee's acts, omissions, use or occupancy of the Premises.

(d) **Lessee's Improvements.** Since Lessor is the Insuring Party, Lessor shall not be required to insure Lessee Owned Alterations and Utility Installations unless the item in question has become the property of Lessor under the terms of this Lease.

8.4 Lessee's Property; Business Interruption Insurance; Worker's Compensation Insurance.

(a) **Property Damage.** Lessee shall obtain and maintain insurance coverage on all of Lessee's personal property, Trade Fixtures, and Lessee Owned Alterations and Utility Installations. Such insurance shall be full replacement cost coverage with a deductible of not to exceed \$1,000 per occurrence. The proceeds from any such insurance shall be used by Lessee for the replacement of personal property, Trade Fixtures and Lessee Owned Alterations and Utility Installations.

(b) **Business Interruption.** Lessee shall obtain and maintain loss of income and extra expense insurance in amounts as will reimburse Lessee for direct or indirect loss of earnings attributable to all perils commonly insured against by prudent lessees in the business of Lessee or attributable to prevention of access to the Premises as a result of such perils.

(c) **Worker's Compensation Insurance.** Lessee shall obtain and maintain Worker's Compensation Insurance in such amount as may be required by Applicable Requirements. Such policy shall include a 'Waiver of Subrogation' endorsement. Lessee shall provide Lessor with a copy of such endorsement along with the certificate of insurance or copy of the policy required by paragraph 8.5.

(d) **No Representation of Adequate Coverage.** Lessor makes no representation that the limits or forms of coverage of insurance specified herein are adequate to cover Lessee's property, business operations or obligations under this Lease.

8.5 Insurance Policies. Insurance required herein shall be by companies maintaining during the policy term a "General Policyholders Rating" of at least A-, VII, as set forth in the most current issue of "Best's Insurance Guide", or such other rating as may be required by a Lender. Lessee shall not do or permit to be done anything which invalidates the required insurance policies. Lessee shall, prior to the Start Date, deliver to Lessor certified copies of policies of such insurance or certificates with copies of the required endorsements evidencing the existence and amounts of the required insurance. No such policy shall be cancelable or subject to modification except after 30 days prior written notice to Lessor. Lessee shall, at least 10 days prior to the expiration of such policies, furnish Lessor with evidence of renewals or "insurance binders" evidencing renewal thereof, or Lessor may increase his liability insurance coverage and charge the cost thereof to Lessee, which amount shall be payable by Lessee to Lessor upon demand. Such policies shall be for a term of at least one year, or the length of the remaining term of this Lease, whichever is less. If either Party shall fail to procure and maintain the insurance required to be carried by it, the other Party may, but shall not be required to, procure and maintain the same.

8.6 Waiver of Subrogation. Without affecting any other rights or remedies, Lessee and Lessor each hereby release and relieve the other, and waive their entire right to recover damages against the other, for loss of or damage to its property arising out of or incident to the perils required to be insured against herein. The effect of such releases and waivers is not limited by the amount of insurance carried or required, or by any deductibles applicable hereto. The Parties agree to have their respective property damage insurance carriers waive any right to subrogation that such companies may have against Lessor or Lessee, as the case may be, so long as the insurance is not invalidated thereby.

8.7 Indemnity. Except for Lessor's gross negligence or willful misconduct, Lessee shall indemnify, protect, defend and hold harmless the Premises, Lessor and its agents, Lessor's master or ground lessor, partners and Lenders, from and against any and all claims, loss of rents and/or damages, liens, judgments, penalties, attorneys' and consultants' fees, expenses and/or liabilities arising out of, involving, or in connection with, a Breach of the Lease by Lessee and/or the use and/or occupancy of the Premises and/or Project by Lessee and/or by Lessee's employees, contractors or invitees. If any action or proceeding is brought against Lessor by reason of any of the foregoing matters, Lessee shall upon notice defend the same at Lessee's expense by counsel reasonably satisfactory to Lessor and Lessor shall cooperate with Lessee in such defense. Lessor need not have first paid any such claim in order to be defended or indemnified.

8.8 Exemption of Lessor and its Agents from Liability. Notwithstanding the negligence or breach of this Lease by Lessor or its agents, neither Lessor nor its agents shall be liable under any circumstances for: (i) injury or damage to the person or goods, wares, merchandise or other property of Lessee, Lessee's employees, contractors, invitees, customers, or any other person in or about the Premises, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, indoor air quality, the presence of mold or from the breakage, leakage, obstruction or other defects of pipes, fire sprinklers, wires, appliances, plumbing, HVAC or lighting fixtures, or from any other cause, whether the said injury or damage results from conditions arising upon the Premises or upon other portions of the Building, or from other sources or places; (ii) any damages arising from any act or neglect of any other tenant of Lessor or from the failure of Lessor or its agents to enforce the provisions of any other lease in the Project; or (iii) injury to Lessee's business or for any loss of income or profit therefrom. Instead, it is intended that Lessee's sole recourse in the event of such damages or injury be to file a claim on the insurance policy(ies) that Lessee is required to maintain pursuant to the provisions of paragraph 8.

8.9 Failure to Provide Insurance. Lessee acknowledges that any failure on its part to obtain or maintain the insurance required herein will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, for any month or portion thereof that Lessee does not maintain the required insurance and/or does not provide Lessor with the required binders or certificates evidencing the existence of the required insurance, the Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or \$100, whichever is greater. The parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to maintain the required insurance. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to the failure to maintain such insurance, prevent the exercise of any of the other rights and remedies granted hereunder, nor relieve Lessee of its obligation to maintain the insurance specified in this Lease.

9. Damage or Destruction.

9.1 Definitions.

(a) **"Premises Partial Damage"** shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations, which can reasonably be repaired in 3 months or less from the date of the damage or destruction, and the cost thereof does not exceed a sum equal to 6 month's Base Rent. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(b) **"Premises Total Destruction"** shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which cannot reasonably be repaired in 3 months or less from the date of the damage or destruction and/or the cost thereof exceeds a sum equal to 6 month's Base Rent. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(c) **"Insured Loss"** shall mean damage or destruction to improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which was caused by an event required to be covered by the insurance described in Paragraph 8.3(a), irrespective of any deductible amounts or coverage limits involved.

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(d) "**Replacement Cost**" shall mean the cost to repair or rebuild the improvements owned by Lessor at the time of the occurrence to their condition existing immediately prior thereto, including demolition, debris removal and upgrading required by the operation of Applicable Requirements, and without deduction for depreciation.

(e) "**Hazardous Substance Condition**" shall mean the occurrence or discovery of a condition involving the presence of, or a contamination by, a Hazardous Substance, in, on, or under the Premises which requires restoration.

9.2 Partial Damage - Insured Loss. If a Premises Partial Damage that is an Insured Loss occurs, then Lessor shall, at Lessor's expense, repair such damage (but not Lessee's Trade Fixtures or Lessee Owned Alterations and Utility Installations) as soon as reasonably possible and this Lease shall continue in full force and effect; provided, however, that Lessee shall, at Lessor's election, make the repair of any damage or destruction the total cost to repair of which is \$10,000 or less, and, in such event, Lessor shall make any applicable insurance proceeds available to Lessee on a reasonable basis for that purpose. Notwithstanding the foregoing, if the required insurance was not in force or the insurance proceeds are not sufficient to effect such repair, the Insuring Party shall promptly contribute the shortage in proceeds as and when required to complete said repairs. In the event, however, such shortage was due to the fact that, by reason of the unique nature of the improvements, full replacement cost insurance coverage was not commercially reasonable and available, Lessor shall have no obligation to pay for the shortage in insurance proceeds or to fully restore the unique aspects of the Premises unless Lessee provides Lessor with the funds to cover same, or adequate assurance thereof, within 10 days following receipt of written notice of such shortage and request therefor. If Lessor receives said funds or adequate assurance thereof within said 10 day period, the party responsible for making the repairs shall complete them as soon as reasonably possible and this Lease shall remain in full force and effect. If such funds or assurance are not received, Lessor may nevertheless elect by written notice to Lessee within 10 days thereafter to: (i) make such restoration and repair as is commercially reasonable with Lessor paying any shortage in proceeds, in which case this Lease shall remain in full force and effect, or (ii) have this Lease terminate 30 days thereafter. Lessee shall not be entitled to reimbursement of any funds contributed by Lessee to repair any such damage or destruction. Premises Partial Damage due to flood or earthquake shall be subject to Paragraph 9.3, notwithstanding that there may be some insurance coverage, but the net proceeds of any such insurance shall be made available for the repairs if made by either Party.

9.3 Partial Damage - Uninsured Loss. If a Premises Partial Damage that is not an Insured Loss occurs, unless caused by a negligent or willful act of Lessee (in which event Lessee shall make the repairs at Lessee's expense), Lessor may either: (i) repair such damage as soon as reasonably possible at Lessor's expense (subject to reimbursement pursuant to Paragraph 4.2), in which event this Lease shall continue in full force and effect, or (ii) terminate this Lease by giving written notice to Lessee within 30 days after receipt by Lessor of knowledge of the occurrence of such damage. Such termination shall be effective 60 days following the date of such notice. In the event Lessor elects to terminate this Lease, Lessee shall have the right within 10 days after receipt of the termination notice to give written notice to Lessor of Lessee's commitment to pay for the repair of such damage without reimbursement from Lessor. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days after making such commitment. In such event this Lease shall continue in full force and effect, and Lessor shall proceed to make such repairs as soon as reasonably possible after the required funds are available. If Lessee does not make the required commitment, this Lease shall terminate as of the date specified in the termination notice.

9.4 Total Destruction. Notwithstanding any other provision hereof, if a Premises Total Destruction occurs, this Lease shall terminate 60 days following such Destruction. If the damage or destruction was caused by the gross negligence or willful misconduct of Lessee, Lessor shall have the right to recover Lessor's damages from Lessee, except as provided in Paragraph 8.6.

9.5 Damage Near End of Term. If at any time during the last 6 months of this Lease there is damage for which the cost to repair exceeds one month's Base Rent, whether or not an Insured Loss, Lessor may terminate this Lease effective 60 days following the date of occurrence of such damage by giving a written termination notice to Lessee within 30 days after the date of occurrence of such damage. Notwithstanding the foregoing, if Lessee at that time has an exercisable option to extend this Lease or to purchase the Premises, then Lessee may preserve this Lease by (a) exercising such option and (b) providing Lessor with any shortage in insurance proceeds (or adequate assurance thereof) needed to make the repairs on or before the earlier of (i) the date which is 10 days after Lessee's receipt of Lessor's written notice purporting to terminate this Lease, or (ii) the day prior to the date upon which such option expires. If Lessee duly exercises such option during such period and provides Lessor with funds (or adequate assurance thereof) to cover any shortage in insurance proceeds, Lessor shall, at Lessor's commercially reasonable expense, repair such damage as soon as reasonably possible and this Lease shall continue in full force and effect. If Lessee fails to exercise such option and provide such funds or assurance during such period, then this Lease shall terminate on the date specified in the termination notice and Lessee's option shall be extinguished.

9.6 Abatement of Rent; Lessee's Remedies.

(a) **Abatement.** In the event of Premises Partial Damage or Premises Total Destruction or a Hazardous Substance Condition for which Lessee is not responsible under this Lease, the Rent payable by Lessee for the period required for the repair, remediation or restoration of such damage shall be abated in proportion to the degree to which Lessee's use of the Premises is impaired, but not to exceed the proceeds received from the Rental Value insurance. All other obligations of Lessee hereunder shall be performed by Lessee, and Lessor shall have no liability for any such damage, destruction, remediation, repair or restoration except as provided herein.

(b) **Remedies.** If Lessor is obligated to repair or restore the Premises and does not commence, in a substantial and meaningful way, such repair or restoration within 90 days after such obligation shall accrue, Lessee may, at any time prior to the commencement of such repair or restoration, give written notice to Lessor and to any Lenders of which Lessee has actual notice, of Lessee's election to terminate this Lease on a date not less than 60 days following the giving of such notice. If Lessee gives such notice and such repair or restoration is not commenced within 30 days thereafter, this Lease shall terminate as of the date specified in said notice. If the repair or restoration is commenced within such 30 days, this Lease shall continue in full force and effect. "Commence" shall mean either the unconditional authorization of the preparation of the required plans, or the beginning of the actual work on the Premises, whichever first occurs.

9.7 Termination; Advance Payments. Upon termination of this Lease pursuant to Paragraph 6.2(g) or Paragraph 9, an equitable adjustment shall be made concerning advance Base Rent and any other advance payments made by Lessee to Lessor. Lessor shall, in addition, return to Lessee so much of Lessee's Security Deposit as has not been, or is not then required to be, used by Lessor.

10. Real Property Taxes.

10.1 Definitions.

(a) "**Real Property Taxes.**" As used herein, the term "**Real Property Taxes**" shall include any form of assessment; real estate, general, special, ordinary or extraordinary, or rental levy or tax (other than inheritance, personal income or estate taxes); improvement bond; and/or license fee imposed upon or levied against any legal or equitable interest of Lessor in the Project, Lessor's right to other income therefrom, and/or Lessor's business of leasing, by any authority having the direct or indirect power to tax and where the funds are generated with reference to the Project address. The term "Real Property Taxes" shall also include any tax, fee, levy, assessment or charge, or any increase therein: (i) imposed by reason of events occurring during the term of this Lease, including but not limited to, a change in the ownership of the Project; (ii) a change in the improvements thereon; and/or (iii) levied or assessed on machinery or equipment provided by Lessor to Lessee pursuant to this Lease.

(b) "**Base Real Property Taxes.**" As used herein, the term "**Base Real Property Taxes**" shall be the amount of Real Property Taxes, which are assessed

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against the Project, during the entire calendar year in which the Lease is executed.

10.2 Payment of Taxes. Except as otherwise provided in Paragraph 10.3, Lessor shall pay the Real Property Taxes applicable to the Project, and said payments shall be included in the calculation of Common Area Operating Expenses in accordance with the provisions of Paragraph 4.2.

10.3 Additional Improvements. Common Area Operating Expenses shall not include Real Property Taxes specified in the tax assessor's records and work sheets as being caused by additional improvements placed upon the Project by other tenants or by Lessor for the exclusive enjoyment of such other Tenants. Notwithstanding Paragraph 10.2 hereof, Lessee shall, however, pay to Lessor at the time Common Area Operating Expenses are payable under Paragraph 4.2, the entirety of any increase in Real Property Taxes if assessed solely by reason of Alterations, Trade Fixtures or Utility Installations placed upon the Premises by Lessee or at Lessee's request or by reason of any alterations or improvements to the Premises made by Lessor subsequent to the execution of this Lease by the Parties.

10.4 Joint Assessment. If the Building is not separately assessed, Real Property Taxes allocated to the Building shall be an equitable proportion of the Real Property Taxes for all of the land and improvements included within the tax parcel assessed, such proportion to be determined by Lessor from the respective valuations assigned in the assessor's work sheets or such other information as may be reasonably available. Lessor's reasonable determination thereof, in good faith, shall be conclusive.

10.5 Personal Property Taxes. Lessee shall pay prior to delinquency all taxes assessed against and levied upon Lessee Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all personal property of Lessee contained in the Premises. When possible, Lessee shall cause its Lessee Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all other personal property to be assessed and billed separately from the real property of Lessor. If any of Lessee's said property shall be assessed with Lessor's real property, Lessee shall pay Lessor the taxes attributable to Lessee's property within 10 days after receipt of a written statement setting forth the taxes applicable to Lessee's property.

11. Utilities and Services.

11.1 Lessee shall pay for all water, gas, heat, light, power, telephone, trash disposal and other utilities and services supplied to the Premises, together with any taxes thereon. Notwithstanding the provisions of Paragraph 4.2, if at any time in Lessor's sole judgment, Lessor determines that Lessee is using a disproportionate amount of water, electricity or other commonly metered utilities, or that Lessee is generating such a large volume of trash as to require an increase in the size of the trash receptacle and/or an increase in the number of times per month that it is emptied, then Lessor may increase Lessee's Base Rent by an amount equal to such increased costs. There shall be no abatement of Rent and Lessor shall not be liable in any respect whatsoever for the inadequacy, stoppage, interruption or discontinuance of any utility or service due to riot, strike, labor dispute, breakdown, accident, repair or other cause beyond Lessor's reasonable control or in cooperation with governmental request or directions.

11.2 Within fifteen days of Lessor's written request, Lessee agrees to deliver to Lessor such information, documents and/or authorization as Lessor needs in order for Lessor to comply with new or existing Applicable Requirements relating to commercial building energy usage, ratings, and/or the reporting thereof.

12. Assignment and Subletting.

12.1 Lessor's Consent Required.

(a) Lessee shall not voluntarily or by operation of law assign, transfer, mortgage or encumber (collectively, "assign or assignment") or sublet all or any part of Lessee's interest in this Lease or in the Premises without Lessor's prior written consent.

(b) Unless Lessee is a corporation and its stock is publicly traded on a national stock exchange, a change in the control of Lessee shall constitute an assignment requiring consent. The transfer, on a cumulative basis, of 25% or more of the voting control of Lessee shall constitute a change in control for this purpose.

(c) The involvement of Lessee or its assets in any transaction, or series of transactions (by way of merger, sale, acquisition, financing, transfer, leveraged buyout or otherwise), whether or not a formal assignment or hypothecation of this Lease or Lessee's assets occurs, which results or will result in a reduction of the Net Worth of Lessee by an amount greater than 25% of such Net Worth as it was represented at the time of the execution of this Lease or at the time of the most recent assignment to which Lessor has consented, or as it exists immediately prior to said transaction or transactions constituting such reduction, whichever was or is greater, shall be considered an assignment of this Lease to which Lessor may withhold its consent. "Net Worth of Lessee" shall mean the net worth of Lessee (excluding any guarantors) established under generally accepted accounting principles.

(d) An assignment or subletting without consent shall, at Lessor's option, be a Default curable after notice per Paragraph 13.1(d), or a non-curable Breach without the necessity of any notice and grace period. If Lessor elects to treat such unapproved assignment or subletting as a non-curable Breach, Lessor may either: (i) terminate this Lease, or (ii) upon 30 days written notice, increase the monthly Base Rent to 110% of the Base Rent then in effect. Further, in the event of such Breach and rental adjustment, (i) the purchase price of any option to purchase the Premises held by Lessee shall be subject to similar adjustment to 110% of the price previously in effect, and (ii) all fixed and non-fixed rental adjustments scheduled during the remainder of the Lease term shall be increased to 110% of the scheduled adjusted rent.

(e) Lessee's remedy for any breach of Paragraph 12.1 by Lessor shall be limited to compensatory damages and/or injunctive relief.

(f) Lessor may reasonably withhold consent to a proposed assignment or subletting if Lessee is in Default at the time consent is requested.

(g) Notwithstanding the foregoing, allowing a de minimis portion of the Premises, i.e. 20 square feet or less, to be used by a third party vendor in connection with the installation of a vending machine or payphone shall not constitute a subletting.

12.2 Terms and Conditions Applicable to Assignment and Subletting.

(a) Regardless of Lessor's consent, no assignment or subletting shall: (i) be effective without the express written assumption by such assignee or sublessee of the obligations of Lessee under this Lease, (ii) release Lessee of any obligations hereunder, or (iii) alter the primary liability of Lessee for the payment of Rent or for the performance of any other obligations to be performed by Lessee.

(b) Lessor may accept Rent or performance of Lessee's obligations from any person other than Lessee pending approval or disapproval of an assignment. Neither a delay in the approval or disapproval of such assignment nor the acceptance of Rent or performance shall constitute a waiver or estoppel of Lessor's right to exercise its remedies for Lessee's Default or Breach.

(c) Lessor's consent to any assignment or subletting shall not constitute a consent to any subsequent assignment or subletting.

(d) In the event of any Default or Breach by Lessee, Lessor may proceed directly against Lessee, any Guarantors or anyone else responsible for the performance of Lessee's obligations under this Lease, including any assignee or sublessee, without first exhausting Lessor's remedies against any other person or entity responsible therefor to Lessor, or any security held by Lessor.

(e) Each request for consent to an assignment or subletting shall be in writing, accompanied by information relevant to Lessor's determination as to the financial and operational responsibility and appropriateness of the proposed assignee or sublessee, including but not limited to the intended use and/or required modification of the Premises, if any, together with a fee of \$500 as consideration for Lessor's considering and processing said request. Lessee agrees to provide Lessor with such other or additional information and/or documentation as may be reasonably requested. (See also Paragraph 36)

(f) Any assignee of, or sublessee under, this Lease shall, by reason of accepting such assignment, entering into such sublease, or entering into possession of the Premises or any portion thereof, be deemed to have assumed and agreed to conform and comply with each and every term, covenant, condition and obligation

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herein to be observed or performed by Lessee during the term of said assignment or sublease, other than such obligations as are contrary to or inconsistent with provisions of an assignment or sublease to which Lessor has specifically consented to in writing.

(g) Lessor's consent to any assignment or subletting shall not transfer to the assignee or sublessee any Option granted to the original Lessee by this Lease unless such transfer is specifically consented to by Lessor in writing. (See Paragraph 39.2)

12.3 Additional Terms and Conditions Applicable to Subletting. The following terms and conditions shall apply to any subletting by Lessee of all or any part of the Premises and shall be deemed included in all subleases under this Lease whether or not expressly incorporated therein:

(a) Lessee hereby assigns and transfers to Lessor all of Lessee's interest in all Rent payable on any sublease, and Lessor may collect such Rent and apply same toward Lessee's obligations under this Lease; provided, however, that until a Breach shall occur in the performance of Lessee's obligations, Lessee may collect said Rent. In the event that the amount collected by Lessor exceeds Lessee's then outstanding obligations any such excess shall be refunded to Lessee. Lessor shall not, by reason of the foregoing or any assignment of such sublease, nor by reason of the collection of Rent, be deemed liable to the sublessee for any failure of Lessee to perform and comply with any of Lessee's obligations to such sublessee. Lessee hereby irrevocably authorizes and directs any such sublessee, upon receipt of a written notice from Lessor stating that a Breach exists in the performance of Lessee's obligations under this Lease, to pay to Lessor all Rent due and to become due under the sublease. Sublessee shall rely upon any such notice from Lessor and shall pay all Rents to Lessor without any obligation or right to inquire as to whether such Breach exists, notwithstanding any claim from Lessee to the contrary.

(b) In the event of a Breach by Lessee, Lessor may, at its option, require sublessee to attorn to Lessor, in which event Lessor shall undertake the obligations of the sublessor under such sublease from the time of the exercise of said option to the expiration of such sublease; provided, however, Lessor shall not be liable for any prepaid rents or security deposit paid by such sublessee to such sublessor or for any prior Defaults or Breaches of such sublessor.

(c) Any matter requiring the consent of the sublessor under a sublease shall also require the consent of Lessor.

(d) No sublessee shall further assign or sublet all or any part of the Premises without Lessor's prior written consent.

(e) Lessor shall deliver a copy of any notice of Default or Breach by Lessee to the sublessee, who shall have the right to cure the Default of Lessee within the grace period, if any, specified in such notice. The sublessee shall have a right of reimbursement and offset from and against Lessee for any such Defaults cured by the sublessee.

13. Default; Breach; Remedies.

13.1 Default; Breach. A "Default" is defined as a failure by the Lessee to comply with or perform any of the terms, covenants, conditions or Rules and Regulations under this Lease. A "Breach" is defined as the occurrence of one or more of the following Defaults, and the failure of Lessee to cure such Default within any applicable grace period:

(a) The abandonment of the Premises; the vacating of the Premises prior to the expiration or termination of this Lease without providing a commercially reasonable level of security, or where the coverage of the property insurance described in Paragraph 8.3 is jeopardized as a result thereof, or without providing reasonable assurances to minimize potential vandalism; or failure to deliver to Lessor exclusive possession of the entire Premises in accordance herewith prior to the expiration or termination of this Lease.

(b) The failure of Lessee to make any payment of Rent or any Security Deposit required to be made by Lessee hereunder, whether to Lessor or to a third party, when due, to provide reasonable evidence of insurance or surety bond, or to fulfill any obligation under this Lease which endangers or threatens life or property, where such failure continues for a period of 3 business days following written notice to Lessee. THE ACCEPTANCE BY LESSOR OF A PARTIAL PAYMENT OF RENT OR SECURITY DEPOSIT SHALL NOT CONSTITUTE A WAIVER OF ANY OF LESSOR'S RIGHTS, INCLUDING LESSOR'S RIGHT TO RECOVER POSSESSION OF THE PREMISES.

(c) The failure of Lessee to allow Lessor and/or its agents access to the Premises or the commission of waste, act or acts constituting public or private nuisance, and/or an illegal activity on the Premises by Lessee, where such actions continue for a period of 3 business days following written notice to Lessee. In the event that Lessee commits waste, a nuisance or an illegal activity a second time then, the Lessor may elect to treat such conduct as a non-curable Breach rather than a Default.

(d) The failure by Lessee to provide (i) reasonable written evidence of compliance with Applicable Requirements, (ii) the service contracts, (iii) the rescission of an unauthorized assignment or subletting, (iv) an Estoppel Certificate or financial statements, (v) a requested subordination, (vi) evidence concerning any guaranty and/or Guarantor, (vii) any document requested under Paragraph 41, (viii) material safety data sheets (MSDS), or (ix) any other documentation or information which Lessor may reasonably require of Lessee under the terms of this Lease, where any such failure continues for a period of 10 days following written notice to Lessee.

(e) A Default by Lessee as to the terms, covenants, conditions or provisions of this Lease, or of the rules adopted under Paragraph 2.9 hereof, other than those described in subparagraphs 13.1(a), (b), (c) or (d), above, where such Default continues for a period of 30 days after written notice; provided, however, that if the nature of Lessee's Default is such that more than 30 days are reasonably required for its cure, then it shall not be deemed to be a Breach if Lessee commences such cure within said 30 day period and thereafter diligently prosecutes such cure to completion.

(f) The occurrence of any of the following events: (i) the making of any general arrangement or assignment for the benefit of creditors; (ii) becoming a "debtor" as defined in 11 U.S.C. § 101 or any successor statute thereto (unless, in the case of a petition filed against Lessee, the same is dismissed within 60 days); (iii) the appointment of a trustee or receiver to take possession of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where possession is not restored to Lessee within 30 days; or (iv) the attachment, execution or other judicial seizure of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where such seizure is not discharged within 30 days; provided, however, in the event that any provision of this subparagraph is contrary to any applicable law, such provision shall be of no force or effect, and not affect the validity of the remaining provisions.

(g) The discovery that any financial statement of Lessee or of any Guarantor given to Lessor was materially false.

(h) If the performance of Lessee's obligations under this Lease is guaranteed: (i) the death of a Guarantor, (ii) the termination of a Guarantor's liability with respect to this Lease other than in accordance with the terms of such guaranty, (iii) a Guarantor's becoming insolvent or the subject of a bankruptcy filing, (iv) a Guarantor's refusal to honor the guaranty, or (v) a Guarantor's breach of its guaranty obligation on an anticipatory basis, and Lessee's failure, within 60 days following written notice of any such event, to provide written alternative assurance or security, which, when coupled with the then existing resources of Lessee, equals or exceeds the combined financial resources of Lessee and the Guarantors that existed at the time of execution of this Lease.

13.2 Remedies. If Lessee fails to perform any of its affirmative duties or obligations, within 10 days after written notice (or in case of an emergency, without notice), Lessor may, at its option, perform such duty or obligation on Lessee's behalf, including but not limited to the obtaining of reasonably required bonds, insurance policies, or governmental licenses, permits or approvals. Lessee shall pay to Lessor an amount equal to 115% of the costs and expenses incurred by Lessor in such performance upon receipt of an invoice therefor. In the event of a Breach, Lessor may, with or without further notice or demand, and without limiting Lessor in the exercise of any right or remedy which Lessor may have by reason of such Breach:

(a) Terminate Lessee's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Lessee shall immediately surrender possession to Lessor. In such event Lessor shall be entitled to recover from Lessee: (i) the unpaid Rent which had been earned at the time of termination;

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(ii) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that the Lessee proves could have been reasonably avoided; (iii) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that the Lessee proves could be reasonably avoided; and (iv) any other amount necessary to compensate Lessor for all the detriment proximately caused by the Lessee's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including but not limited to the cost of recovering possession of the Premises, expenses of reletting, including necessary renovation and alteration of the Premises, reasonable attorneys' fees, and that portion of any leasing commission paid by Lessor in connection with this Lease applicable to the unexpired term of this Lease. The worth at the time of award of the amount referred to in provision (iii) of the immediately preceding sentence shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of the District within which the Premises are located at the time of award plus one percent. Efforts by Lessor to mitigate damages caused by Lessee's Breach of this Lease shall not waive Lessor's right to recover any damages to which Lessor is otherwise entitled. If termination of this Lease is obtained through the provisional remedy of unlawful detainer, Lessor shall have the right to recover in such proceeding any unpaid Rent and damages as are recoverable therein, or Lessor may reserve the right to recover all or any part thereof in a separate suit. If a notice and grace period required under Paragraph 13.1 was not previously given, a notice to pay rent or quit, or to perform or quit given to Lessee under the unlawful detainer statute shall also constitute the notice required by Paragraph 13.1. In such case, the applicable grace period required by Paragraph 13.1 and the unlawful detainer statute shall run concurrently, and the failure of Lessee to cure the Default within the greater of the two such grace periods shall constitute both an unlawful detainer and a Breach of this Lease entitling Lessor to the remedies provided for in this Lease and/or by said statute.

(b) Continue the Lease and Lessee's right to possession and recover the Rent as it becomes due, in which event Lessee may sublet or assign, subject only to reasonable limitations. Acts of maintenance, efforts to relet, and/or the appointment of a receiver to protect the Lessor's interests, shall not constitute a termination of the Lessee's right to possession.

(c) Pursue any other remedy now or hereafter available under the laws or judicial decisions of the state wherein the Premises are located. The expiration or termination of this Lease and/or the termination of Lessee's right to possession shall not relieve Lessee from liability under any indemnity provisions of this Lease as to matters occurring or accruing during the term hereof or by reason of Lessee's occupancy of the Premises.

13.3 Inducement Recapture. Any agreement for free or abated rent or other charges, the cost of tenant improvements for Lessee paid for or performed by Lessor, or for the giving or paying by Lessor to or for Lessee of any cash or other bonus, inducement or consideration for Lessee's entering into this Lease, all of which concessions are hereinafter referred to as "**Inducement Provisions**," shall be deemed conditioned upon Lessee's full and faithful performance of all of the terms, covenants and conditions of this Lease. Upon Breach of this Lease by Lessee, any such Inducement Provision shall automatically be deemed deleted from this Lease and of no further force or effect, and any rent, other charge, bonus, inducement or consideration theretofore abated, given or paid by Lessor under such an Inducement Provision shall be immediately due and payable by Lessee to Lessor, notwithstanding any subsequent cure of said Breach by Lessee. The acceptance by Lessor of rent or the cure of the Breach which initiated the operation of this paragraph shall not be deemed a waiver by Lessor of the provisions of this paragraph unless specifically so stated in writing by Lessor at the time of such acceptance.

13.4 Late Charges. Lessee hereby acknowledges that late payment by Lessee of Rent will cause Lessor to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, and late charges which may be imposed upon Lessor by any Lender. Accordingly, if any Rent shall not be received by Lessor within 5 days after such amount shall be due, then, without any requirement for notice to Lessee, Lessee shall immediately pay to Lessor a one-time late charge equal to 10% of each such overdue amount or \$100, whichever is greater. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Lessor will incur by reason of such late payment. Acceptance of such late charge by Lessor shall in no event constitute a waiver of Lessee's Default or Breach with respect to such overdue amount, nor prevent the exercise of any of the other rights and remedies granted hereunder. In the event that a late charge is payable hereunder, whether or not collected, for 3 consecutive installments of Base Rent, then notwithstanding any provision of this Lease to the contrary, Base Rent shall, at Lessor's option, become due and payable quarterly in advance.

13.5 Interest. Any monetary payment due Lessor hereunder, other than late charges, not received by Lessor, when due shall bear interest from the 31st day after it was due. The interest ("**Interest**") charged shall be computed at the rate of 10% per annum but shall not exceed the maximum rate allowed by law. Interest is payable in addition to the potential late charge provided for in Paragraph 13.4.

13.6 Breach by Lessor.

(a) **Notice of Breach.** Lessor shall not be deemed in breach of this Lease unless Lessor fails within a reasonable time to perform an obligation required to be performed by Lessor. For purposes of this Paragraph, a reasonable time shall in no event be less than 30 days after receipt by Lessor, and any Lender whose name and address shall have been furnished to Lessee in writing for such purpose, of written notice specifying wherein such obligation of Lessor has not been performed; provided, however, that if the nature of Lessor's obligation is such that more than 30 days are reasonably required for its performance, then Lessor shall not be in breach if performance is commenced within such 30 day period and thereafter diligently pursued to completion.

(b) **Performance by Lessee on Behalf of Lessor.** In the event that neither Lessor nor Lender cures said breach within 30 days after receipt of said notice, or if having commenced said cure they do not diligently pursue it to completion, then Lessee may elect to cure said breach at Lessee's expense and offset from Rent the actual and reasonable cost to perform such cure, provided however, that such offset shall not exceed an amount equal to the greater of one month's Base Rent or the Security Deposit, reserving Lessee's right to reimbursement from Lessor for any such expense in excess of such offset. Lessee shall document the cost of said cure and supply said documentation to Lessor.

14. Condemnation. If the Premises or any portion thereof are taken under the power of eminent domain or sold under the threat of the exercise of said power (collectively "**Condemnation**"), this Lease shall terminate as to the part taken as of the date the condemning authority takes title or possession, whichever first occurs. If more than 10% of the floor area of the Unit, or more than 25% of the parking spaces is taken by Condemnation, Lessee may, at Lessee's option, to be exercised in writing within 10 days after Lessor shall have given Lessee written notice of such taking (or in the absence of such notice, within 10 days after the condemning authority shall have taken possession) terminate this Lease as of the date the condemning authority takes such possession. If Lessee does not terminate this Lease in accordance with the foregoing, this Lease shall remain in full force and effect as to the portion of the Premises remaining, except that the Base Rent shall be reduced in proportion to the reduction in utility of the Premises caused by such Condemnation. Condemnation awards and/or payments shall be the property of Lessor, whether such award shall be made as compensation for diminution in value of the leasehold, the value of the part taken, or for severance damages; provided, however, that Lessee shall be entitled to any compensation paid by the condemnor for Lessee's relocation expenses, loss of business goodwill and/or Trade Fixtures, without regard to whether or not this Lease is terminated pursuant to the provisions of this Paragraph. All Alterations and Utility Installations made to the Premises by Lessee, for purposes of Condemnation only, shall be considered the property of the Lessee and Lessee shall be entitled to any and all compensation which is payable therefor. In the event that this Lease is not terminated by reason of the Condemnation, Lessor shall repair any damage to the Premises caused by such Condemnation.

15. Brokerage Fees.

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15.1 **Additional Commission.** In addition to the payments owed pursuant to Paragraph 1.10 above, Lessor agrees that: (a) if Lessee exercises any Option, (b) if Lessee or anyone affiliated with Lessee acquires from Lessor any rights to the Premises or other premises owned by Lessor and located within the Project, (c) if Lessee remains in possession of the Premises, with the consent of Lessor, after the expiration of this Lease, or (d) if Base Rent is increased, whether by agreement or operation of an escalation clause herein, then, Lessor shall pay Brokers a fee in accordance with the fee schedule of the Brokers in effect at the time the Lease was executed. The provisions of this paragraph are intended to supersede the provisions of any earlier agreement to the contrary.

15.2 **Assumption of Obligations.** Any buyer or transferee of Lessor's interest in this Lease shall be deemed to have assumed Lessor's obligation hereunder. Brokers shall be third party beneficiaries of the provisions of Paragraphs 1.10, 15, 22 and 31. If Lessor fails to pay to Brokers any amounts due as and for brokerage fees pertaining to this Lease when due, then such amounts shall accrue interest. In addition, if Lessor fails to pay any amounts to Lessee's Broker when due, Lessee's Broker may send written notice to Lessor and Lessee of such failure and if Lessor fails to pay such amounts within 10 days after said notice, Lessee shall pay said monies to its Broker and offset such amounts against Rent. In addition, Lessee's Broker shall be deemed to be a third party beneficiary of any commission agreement entered into by and/or between Lessor and Lessor's Broker for the limited purpose of collecting any brokerage fee owed.

15.3 **Representations and Indemnities of Broker Relationships.** Lessee and Lessor each represent and warrant to the other that it has had no dealings with any person, firm, broker, agent or finder (other than the Brokers and Agents, if any) in connection with this Lease, and that no one other than said named Brokers and Agents is entitled to any commission or finder's fee in connection herewith. Lessee and Lessor do each hereby agree to indemnify, protect, defend and hold the other harmless from and against liability for compensation or charges which may be claimed by any such unnamed broker, finder or other similar party by reason of any dealings or actions of the indemnifying Party, including any costs, expenses, attorneys' fees reasonably incurred with respect thereto.

16. Estoppel Certificates.

(a) Each Party (as "**Responding Party**") shall within 10 days after written notice from the other Party (the "**Requesting Party**") execute, acknowledge and deliver to the Requesting Party a statement in writing in form similar to the then most current "**Estoppel Certificate**" form published by AIR CRE, plus such additional information, confirmation and/or statements as may be reasonably requested by the Requesting Party.

(b) If the Responding Party shall fail to execute or deliver the Estoppel Certificate within such 10 day period, the Requesting Party may execute an Estoppel Certificate stating that: (i) the Lease is in full force and effect without modification except as may be represented by the Requesting Party, (ii) there are no uncured defaults in the Requesting Party's performance, and (iii) if Lessor is the Requesting Party, not more than one month's rent has been paid in advance. Prospective purchasers and encumbrancers may rely upon the Requesting Party's Estoppel Certificate, and the Responding Party shall be estopped from denying the truth of the facts contained in said Certificate. In addition, Lessee acknowledges that any failure on its part to provide such an Estoppel Certificate will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, should the Lessee fail to execute and/or deliver a requested Estoppel Certificate in a timely fashion the monthly Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or \$100, whichever is greater for remainder of the Lease. The Parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to provide the Estoppel Certificate. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to the failure to provide the Estoppel Certificate nor prevent the exercise of any of the other rights and remedies granted hereunder.

(c) If Lessor desires to finance, refinance, or sell the Premises, or any part thereof, Lessee and all Guarantors shall within 10 days after written notice from Lessor deliver to any potential lender or purchaser designated by Lessor such financial statements as may be reasonably required by such lender or purchaser, including but not limited to Lessee's financial statements for the past 3 years. All such financial statements shall be received by Lessor and such lender or purchaser in confidence and shall be used only for the purposes herein set forth.

17. **Definition of Lessor.** The term "**Lessor**" as used herein shall mean the owner or owners at the time in question of the fee title to the Premises, or, if this is a sublease, of the Lessee's interest in the prior lease. In the event of a transfer of Lessor's title or interest in the Premises or this Lease, Lessor shall deliver to the transferee or assignee (in cash or by credit) any unused Security Deposit held by Lessor. Upon such transfer or assignment and delivery of the Security Deposit, as aforesaid, the prior Lessor shall be relieved of all liability with respect to the obligations and/or covenants under this Lease thereafter to be performed by the Lessor. Subject to the foregoing, the obligations and/or covenants in this Lease to be performed by the Lessor shall be binding only upon the Lessor as hereinabove defined.

18. **Severability.** The invalidity of any provision of this Lease, as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.

19. **Days.** Unless otherwise specifically indicated to the contrary, the word "**days**" as used in this Lease shall mean and refer to calendar days.

20. **Limitation on Liability.** The obligations of Lessor under this Lease shall not constitute personal obligations of Lessor, or its partners, members, directors, officers or shareholders, and Lessee shall look to the Premises, and to no other assets of Lessor, for the satisfaction of any liability of Lessor with respect to this Lease, and shall not seek recourse against Lessor's partners, members, directors, officers or shareholders, or any of their personal assets for such satisfaction.

21. **Time of Essence.** Time is of the essence with respect to the performance of all obligations to be performed or observed by the Parties under this Lease.

22. **No Prior or Other Agreements; Broker Disclaimer.** This Lease contains all agreements between the Parties with respect to any matter mentioned herein, and no other prior or contemporaneous agreement or understanding shall be effective. Lessor and Lessee each represents and warrants to the Brokers that it has made, and is relying solely upon, its own investigation as to the nature, quality, character and financial responsibility of the other Party to this Lease and as to the use, nature, quality and character of the Premises. Brokers have no responsibility with respect thereto or with respect to any default or breach hereof by either Party.

23. Notices.

23.1 **Notice Requirements.** All notices required or permitted by this Lease or applicable law shall be in writing and may be delivered in person (by hand or by courier) or may be sent by regular, certified or registered mail or U.S. Postal Service Express Mail, with postage prepaid, or by facsimile transmission, or by email, and shall be deemed sufficiently given if served in a manner specified in this Paragraph 23. The addresses noted adjacent to a Party's signature on this Lease shall be that Party's address for delivery or mailing of notices. Either Party may by written notice to the other specify a different address for notice, except that upon Lessee's taking possession of the Premises, the Premises shall constitute Lessee's address for notice. A copy of all notices to Lessor shall be concurrently transmitted to such party or parties at such addresses as Lessor may from time to time hereafter designate in writing.

23.2 **Date of Notice.** Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is shown, the postmark thereon. If sent by regular mail the notice shall be deemed given 72 hours after the same is addressed as required herein and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantees next day delivery shall be deemed given 24 hours after delivery of the same to the Postal Service or courier. Notices delivered by hand, or transmitted by facsimile transmission or by email

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shall be deemed delivered upon actual receipt. If notice is received on a Saturday, Sunday or legal holiday, it shall be deemed received on the next business day.

23.3 **Options.** Notwithstanding the foregoing, in order to exercise any Options (see paragraph 39), the Notice must be sent by Certified Mail (return receipt requested), Express Mail (signature required), courier (signature required) or some other methodology that provides a receipt establishing the date the notice was received by the Lessor.

24. Waivers.

(a) No waiver by Lessor of the Default or Breach of any term, covenant or condition hereof by Lessee, shall be deemed a waiver of any other term, covenant or condition hereof, or of any subsequent Default or Breach by Lessee of the same or of any other term, covenant or condition hereof. Lessor's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of Lessor's consent to, or approval of, any subsequent or similar act by Lessee, or be construed as the basis of an estoppel to enforce the provision or provisions of this Lease requiring such consent.

(b) The acceptance of Rent by Lessor shall not be a waiver of any Default or Breach by Lessee. Any payment by Lessee may be accepted by Lessor on account of monies or damages due Lessor, notwithstanding any qualifying statements or conditions made by Lessee in connection therewith, which such statements and/or conditions shall be of no force or effect whatsoever unless specifically agreed to in writing by Lessor at or before the time of deposit of such payment.

(c) THE PARTIES AGREE THAT THE TERMS OF THIS LEASE SHALL GOVERN WITH REGARD TO ALL MATTERS RELATED THERETO AND HEREBY WAIVE THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE TO THE EXTENT THAT SUCH STATUTE IS INCONSISTENT WITH THIS LEASE.

25. Disclosures Regarding The Nature of a Real Estate Agency Relationship.

(a) When entering into a discussion with a real estate agent regarding a real estate transaction, a Lessor or Lessee should from the outset understand what type of agency relationship or representation it has with the agent or agents in the transaction. Lessor and Lessee acknowledge being advised by the Brokers in this transaction, as follows:

(i) Lessor's Agent. A Lessor's agent under a listing agreement with the Lessor acts as the agent for the Lessor only. A Lessor's agent or subagent has the following affirmative obligations: To the Lessor: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessor. To the Lessee and the Lessor: (a) Diligent exercise of reasonable skills and care in performance of the agent's duties. (b) A duty of honest and fair dealing and good faith. (c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(ii) Lessee's Agent. An agent can agree to act as agent for the Lessee only. In these situations, the agent is not the Lessor's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Lessor. An agent acting only for a Lessee has the following affirmative obligations. To the Lessee: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessee. To the Lessee and the Lessor: (a) Diligent exercise of reasonable skills and care in performance of the agent's duties. (b) A duty of honest and fair dealing and good faith. (c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(iii) Agent Representing Both Lessor and Lessee. A real estate agent, either acting directly or through one or more associate licensees, can legally be the agent of both the Lessor and the Lessee in a transaction, but only with the knowledge and consent of both the Lessor and the Lessee. In a dual agency situation, the agent has the following affirmative obligations to both the Lessor and the Lessee: (a) A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either Lessor or the Lessee. (b) Other duties to the Lessor and the Lessee as stated above in subparagraphs (i) or (ii). In representing both Lessor and Lessee, the agent may not, without the express permission of the respective Party, disclose to the other Party confidential information, including, but not limited to, facts relating to either Lessee's or Lessor's financial position, motivations, bargaining position, or other personal information that may impact rent, including Lessor's willingness to accept a rent less than the listing rent or Lessee's willingness to pay rent greater than the rent offered. The above duties of the agent in a real estate transaction do not relieve a Lessor or Lessee from the responsibility to protect their own interests. Lessor and Lessee should carefully read all agreements to assure that they adequately express their understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional. Both Lessor and Lessee should strongly consider obtaining tax advice from a competent professional because the federal and state tax consequences of a transaction can be complex and subject to change.

(b) Brokers have no responsibility with respect to any default or breach hereof by either Party. The Parties agree that no lawsuit or other legal proceeding involving any breach of duty, error or omission relating to this Lease may be brought against Broker more than one year after the Start Date and that the liability (including court costs and attorneys' fees), of any Broker with respect to any such lawsuit and/or legal proceeding shall not exceed the fee received by such Broker pursuant to this Lease; provided, however, that the foregoing limitation on each Broker's liability shall not be applicable to any gross negligence or willful misconduct of such Broker.

(c) Lessor and Lessee agree to identify to Brokers as "Confidential" any communication or information given Brokers that is considered by such Party to be confidential.

26. No Right To Holdover. Lessee has no right to retain possession of the Premises or any part thereof beyond the expiration or termination of this Lease. At or prior to the expiration or termination of this Lease Lessee shall deliver exclusive possession of the Premises to Lessor. For purposes of this provision and Paragraph 13.1(a), exclusive possession shall mean that Lessee shall have vacated the Premises, removed all of its personal property therefrom and that the Premises have been returned in the condition specified in this Lease. In the event that Lessee does not deliver exclusive possession to Lessor as specified above, then Lessor's damages during any holdover period shall be computed at the amount of the Rent (as defined in Paragraph 4.1) due during the last full month before the expiration or termination of this Lease (disregarding any temporary abatement of Rent that may have been in effect), but with Base Rent being 150% of the Base Rent payable during such last full month. Nothing contained herein shall be construed as consent by Lessor to any holding over by Lessee.

27. Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

28. Covenants and Conditions; Construction of Agreement. All provisions of this Lease to be observed or performed by Lessee are both covenants and conditions. In construing this Lease, all headings and titles are for the convenience of the Parties only and shall not be considered a part of this Lease. Whenever required by the context, the singular shall include the plural and vice versa. This Lease shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

29. Binding Effect; Choice of Law. This Lease shall be binding upon the Parties, their personal representatives, successors and assigns and be governed by the laws of the State in which the Premises are located. Any litigation between the Parties hereto concerning this Lease shall be initiated in the county in which the Premises

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are located. Signatures to this Lease accomplished by means of electronic signature or similar technology shall be legal and binding.

30. Subordination; Attornment; Non-Disturbance.

30.1 Subordination. This Lease and any Option granted hereby shall be subject and subordinate to any ground lease, mortgage, deed of trust, or other hypothecation or security device (collectively, "**Security Device**"), now or hereafter placed upon the Premises, to any and all advances made on the security thereof, and to all renewals, modifications, and extensions thereof. Lessee agrees that the holders of any such Security Devices (in this Lease together referred to as "**Lender**") shall have no liability or obligation to perform any of the obligations of Lessor under this Lease. Any Lender may elect to have this Lease and/or any Option granted hereby superior to the lien of its Security Device by giving written notice thereof to Lessee, whereupon this Lease and such Options shall be deemed prior to such Security Device, notwithstanding the relative dates of the documentation or recordation thereof.

30.2 Attornment. In the event that Lessor transfers title to the Premises, or the Premises are acquired by another upon the foreclosure or termination of a Security Device to which this Lease is subordinated (i) Lessee shall, subject to the non-disturbance provisions of Paragraph 30.3, attorn to such new owner, and upon request, enter into a new lease, containing all of the terms and provisions of this Lease, with such new owner for the remainder of the term hereof, or, at the election of the new owner, this Lease will automatically become a new lease between Lessee and such new owner, and (ii) Lessor shall thereafter be relieved of any further obligations hereunder and such new owner shall assume all of Lessor's obligations, except that such new owner shall not: (a) be liable for any act or omission of any prior lessor or with respect to events occurring prior to acquisition of ownership; (b) be subject to any offsets or defenses which Lessee might have against any prior lessor, (c) be bound by prepayment of more than one month's rent, or (d) be liable for the return of any security deposit paid to any prior lessor which was not paid or credited to such new owner.

30.3 Non-Disturbance. With respect to Security Devices entered into by Lessor after the execution of this Lease, Lessee's subordination of this Lease shall be subject to receiving a commercially reasonable non-disturbance agreement (a "**Non-Disturbance Agreement**") from the Lender which Non-Disturbance Agreement provides that Lessee's possession of the Premises, and this Lease, including any options to extend the term hereof, will not be disturbed so long as Lessee is not in Breach hereof and attorns to the record owner of the Premises. Further, within 60 days after the execution of this Lease, Lessor shall, if requested by Lessee, use its commercially reasonable efforts to obtain a Non-Disturbance Agreement from the holder of any pre-existing Security Device which is secured by the Premises. In the event that Lessor is unable to provide the Non-Disturbance Agreement within said 60 days, then Lessee may, at Lessee's option, directly contact Lender and attempt to negotiate for the execution and delivery of a Non-Disturbance Agreement.

30.4 Self-Executing. The agreements contained in this Paragraph 30 shall be effective without the execution of any further documents; provided, however, that, upon written request from Lessor or a Lender in connection with a sale, financing or refinancing of the Premises, Lessee and Lessor shall execute such further writings as may be reasonably required to separately document any subordination, attornment and/or Non-Disturbance Agreement provided for herein.

31. Attorneys' Fees. If any Party or Broker brings an action or proceeding involving the Premises whether founded in tort, contract or equity, or to declare rights hereunder, the Prevailing Party (as hereafter defined) in any such proceeding, action, or appeal thereon, shall be entitled to reasonable attorneys' fees. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The term, "**Prevailing Party**" shall include, without limitation, a Party or Broker who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other Party or Broker of its claim or defense. The attorneys' fees award shall not be computed in accordance with any court fee schedule, but shall be such as to fully reimburse all attorneys' fees reasonably incurred. In addition, Lessor shall be entitled to attorneys' fees, costs and expenses incurred in the preparation and service of notices of Default and consultations in connection therewith, whether or not a legal action is subsequently commenced in connection with such Default or resulting Breach (\$200 is a reasonable minimum per occurrence for such services and consultation).

32. Lessor's Access; Showing Premises; Repairs. Lessor and Lessor's agents shall have the right to enter the Premises at any time, in the case of an emergency, and otherwise at reasonable times after reasonable prior notice for the purpose of showing the same to prospective purchasers, lenders, or tenants, and making such alterations, repairs, improvements or additions to the Premises as Lessor may deem necessary or desirable and the erecting, using and maintaining of utilities, services, pipes and conduits through the Premises and/or other premises as long as there is no material adverse effect on Lessee's use of the Premises. All such activities shall be without abatement of rent or liability to Lessee.

33. Auctions. Lessee shall not conduct, nor permit to be conducted, any auction upon the Premises without Lessor's prior written consent. Lessor shall not be obligated to exercise any standard of reasonableness in determining whether to permit an auction.

34. Signs. Lessor may place on the Premises ordinary "For Sale" signs at any time and ordinary "For Lease" signs during the last 6 months of the term hereof. Except for ordinary "For Sublease" signs which may be placed only on the Premises, Lessee shall not place any sign upon the Project without Lessor's prior written consent. All signs must comply with all Applicable Requirements.

35. Termination; Merger. Unless specifically stated otherwise in writing by Lessor, the voluntary or other surrender of this Lease by Lessee, the mutual termination or cancellation hereof, or a termination hereof by Lessor for Breach by Lessee, shall automatically terminate any sublease or lesser estate in the Premises; provided, however, that Lessor may elect to continue any one or all existing subtenancies. Lessor's failure within 10 days following any such event to elect to the contrary by written notice to the holder of any such lesser interest, shall constitute Lessor's election to have such event constitute the termination of such interest.

36. Consents. All requests for consent shall be in writing. Except as otherwise provided herein, wherever in this Lease the consent of a Party is required to an act by or for the other Party, such consent shall not be unreasonably withheld or delayed. Lessor's actual reasonable costs and expenses (including but not limited to architects', attorneys', engineers' and other consultants' fees) incurred in the consideration of, or response to, a request by Lessee for any Lessor consent, including but not limited to consents to an assignment, a subletting or the presence or use of a Hazardous Substance, shall be paid by Lessee upon receipt of an invoice and supporting documentation therefor. Lessor's consent to any act, assignment or subletting shall not constitute an acknowledgment that no Default or Breach by Lessee of this Lease exists, nor shall such consent be deemed a waiver of any then existing Default or Breach, except as may be otherwise specifically stated in writing by Lessor at the time of such consent. The failure to specify herein any particular condition to Lessor's consent shall not preclude the imposition by Lessor at the time of consent of such further or other conditions as are then reasonable with reference to the particular matter for which consent is being given. In the event that either Party disagrees with any determination made by the other hereunder and reasonably requests the reasons for such determination, the determining party shall furnish its reasons in writing and in reasonable detail within 10 business days following such request.

37. Guarantor.

37.1 Execution. The Guarantors, if any, shall each execute a guaranty in the form most recently published by AIR CRE.

37.2 Default. It shall constitute a Default of the Lessee if any Guarantor fails or refuses, upon request to provide: (a) evidence of the execution of the guaranty, including the authority of the party signing on Guarantor's behalf to obligate Guarantor, and in the case of a corporate Guarantor, a certified copy of a resolution of its

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board of directors authorizing the making of such guaranty, (b) current financial statements, (c) an Estoppel Certificate, or (d) written confirmation that the guaranty is still in effect.

38. Quiet Possession. Subject to payment by Lessee of the Rent and performance of all of the covenants, conditions and provisions on Lessee's part to be observed and performed under this Lease, Lessee shall have quiet possession and quiet enjoyment of the Premises during the term hereof.

39. Options. If Lessee is granted any Option, as defined below, then the following provisions shall apply.

39.1 Definition. "Option" shall mean: (a) the right to extend or reduce the term of or renew this Lease or to extend or reduce the term of or renew any lease that Lessee has on other property of Lessor; (b) the right of first refusal or first offer to lease either the Premises or other property of Lessor; (c) the right to purchase, the right of first offer to purchase or the right of first refusal to purchase the Premises or other property of Lessor.

39.2 Options Personal To Original Lessee. Any Option granted to Lessee in this Lease is personal to the original Lessee, and cannot be assigned or exercised by anyone other than said original Lessee and only while the original Lessee is in full possession of the Premises and, if requested by Lessor, with Lessee certifying that Lessee has no intention of thereafter assigning or subletting.

39.3 Multiple Options. In the event that Lessee has any multiple Options to extend or renew this Lease, a later Option cannot be exercised unless the prior Options have been validly exercised.

39.4 Effect of Default on Options.

(a) Lessee shall have no right to exercise an Option: (i) during the period commencing with the giving of any notice of Default and continuing until said Default is cured, (ii) during the period of time any Rent is unpaid (without regard to whether notice thereof is given Lessee), (iii) during the time Lessee is in Breach of this Lease, or (iv) in the event that Lessee has been given 3 or more notices of separate Default, whether or not the Defaults are cured, during the 12 month period immediately preceding the exercise of the Option.

(b) The period of time within which an Option may be exercised shall not be extended or enlarged by reason of Lessee's inability to exercise an Option because of the provisions of Paragraph 39.4(a).

(c) An Option shall terminate and be of no further force or effect, notwithstanding Lessee's due and timely exercise of the Option, if, after such exercise and prior to the commencement of the extended term or completion of the purchase, (i) Lessee fails to pay Rent for a period of 30 days after such Rent becomes due (without any necessity of Lessor to give notice thereof), or (ii) if Lessee commits a Breach of this Lease.

40. Security Measures. Lessee hereby acknowledges that the Rent payable to Lessor hereunder does not include the cost of guard service or other security measures, and that Lessor shall have no obligation whatsoever to provide same. Lessee assumes all responsibility for the protection of the Premises, Lessee, its agents and invitees and their property from the acts of third parties.

41. Reservations. Lessor reserves the right: (i) to grant, without the consent or joinder of Lessee, such easements, rights and dedications that Lessor deems necessary; (ii) to cause the recordation of parcel maps and restrictions; and (iii) to create and/or install new utility raceways, so long as such easements, rights, dedications, maps, restrictions, and utility raceways do not unreasonably interfere with the use of the Premises by Lessee. Lessee agrees to sign any documents reasonably requested by Lessor to effectuate such rights.

42. Performance Under Protest. If at any time a dispute shall arise as to any amount or sum of money to be paid by one Party to the other under the provisions hereof, the Party against whom the obligation to pay the money is asserted shall have the right to make payment "under protest" and such payment shall not be regarded as a voluntary payment and there shall survive the right on the part of said Party to institute suit for recovery of such sum. If it shall be adjudged that there was no legal obligation on the part of said Party to pay such sum or any part thereof, said Party shall be entitled to recover such sum or so much thereof as it was not legally required to pay. A Party who does not initiate suit for the recovery of sums paid "under protest" within 6 months shall be deemed to have waived its right to protest such payment.

43. Authority; Multiple Parties; Execution.

(a) If either Party hereto is a corporation, trust, limited liability company, partnership, or similar entity, each individual executing this Lease on behalf of such entity represents and warrants that he or she is duly authorized to execute and deliver this Lease on its behalf. Each Party shall, within 30 days after request, deliver to the other Party satisfactory evidence of such authority.

(b) If this Lease is executed by more than one person or entity as "Lessee", each such person or entity shall be jointly and severally liable hereunder. It is agreed that any one of the named Lessees shall be empowered to execute any amendment to this Lease, or other document ancillary thereto and bind all of the named Lessees, and Lessor may rely on the same as if all of the named Lessees had executed such document.

(c) This Lease may be executed by the Parties in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

44. Conflict. Any conflict between the printed provisions of this Lease and the typewritten or handwritten provisions shall be controlled by the typewritten or handwritten provisions.

45. Offer. Preparation of this Lease by either party or their agent and submission of same to the other Party shall not be deemed an offer to lease to the other Party. This Lease is not intended to be binding until executed and delivered by all Parties hereto.

46. Amendments. This Lease may be modified only in writing, signed by the Parties in interest at the time of the modification. As long as they do not materially change Lessee's obligations hereunder, Lessee agrees to make such reasonable non-monetary modifications to this Lease as may be reasonably required by a Lender in connection with the obtaining of normal financing or refinancing of the Premises.

47. Waiver of Jury Trial. THE PARTIES HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING INVOLVING THE PROPERTY OR ARISING OUT OF THIS AGREEMENT.

48. Arbitration of Disputes. An Addendum requiring the Arbitration of all disputes between the Parties and/or Brokers arising out of this Lease is is not attached to this Lease.

49. Accessibility; Americans with Disabilities Act.

(a) The Premises:

have not undergone an inspection by a Certified Access Specialist (CASp). Note: A Certified Access Specialist (CASp) can inspect the subject premises and

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determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises.

have undergone an inspection by a Certified Access Specialist (CASp) and it was determined that the Premises met all applicable construction-related accessibility standards pursuant to California Civil Code §55.51 et seq. Lessee acknowledges that it received a copy of the inspection report at least 48 hours prior to executing this Lease and agrees to keep such report confidential.

have undergone an inspection by a Certified Access Specialist (CASp) and it was determined that the Premises did not meet all applicable construction-related accessibility standards pursuant to California Civil Code §55.51 et seq. Lessee acknowledges that it received a copy of the inspection report at least 48 hours prior to executing this Lease and agrees to keep such report confidential except as necessary to complete repairs and corrections of violations of construction related accessibility standards.

In the event that the Premises have been issued an inspection report by a CASp the Lessor shall provide a copy of the disability access inspection certificate to Lessee within 7 days of the execution of this Lease.

(b) Since compliance with the Americans with Disabilities Act (ADA) and other state and local accessibility statutes are dependent upon Lessee's specific use of the Premises, Lessor makes no warranty or representation as to whether or not the Premises comply with ADA or any similar legislation. In the event that Lessee's use of the Premises requires modifications or additions to the Premises in order to be in compliance with ADA or other accessibility statutes, Lessee agrees to make any such necessary modifications and/or additions at Lessee's expense.

50. Lessee Work: Lessee, at their sole cost shall paint the interior of the office. Paint color to be approved by Lessor prior to painting.

LESSOR AND LESSEE HAVE CAREFULLY READ AND REVIEWED THIS LEASE AND EACH TERM AND PROVISION CONTAINED HEREIN, AND BY THE EXECUTION OF THIS LEASE SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO. THE PARTIES HEREBY AGREE THAT, AT THE TIME THIS LEASE IS EXECUTED, THE TERMS OF THIS LEASE ARE COMMERCIALY REASONABLE AND EFFECTUATE THE INTENT AND PURPOSE OF LESSOR AND LESSEE WITH RESPECT TO THE PREMISES.

ATTENTION: NO REPRESENTATION OR RECOMMENDATION IS MADE BY AIR CRE OR BY ANY BROKER AS TO THE LEGAL SUFFICIENCY, LEGAL EFFECT, OR TAX CONSEQUENCES OF THIS LEASE OR THE TRANSACTION TO WHICH IT RELATES. THE PARTIES ARE URGED TO:

- 1. SEEK ADVICE OF COUNSEL AS TO THE LEGAL AND TAX CONSEQUENCES OF THIS LEASE.
- 2. RETAIN APPROPRIATE CONSULTANTS TO REVIEW AND INVESTIGATE THE CONDITION OF THE PREMISES. SAID INVESTIGATION SHOULD INCLUDE BUT NOT BE LIMITED TO: THE POSSIBLE PRESENCE OF HAZARDOUS SUBSTANCES, THE ZONING OF THE PREMISES, THE STRUCTURAL INTEGRITY, THE CONDITION OF THE ROOF AND OPERATING SYSTEMS, COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT AND THE SUITABILITY OF THE PREMISES FOR LESSEE'S INTENDED USE.

WARNING: IF THE PREMISES ARE LOCATED IN A STATE OTHER THAN CALIFORNIA, CERTAIN PROVISIONS OF THE LEASE MAY NEED TO BE REVISED TO COMPLY WITH THE LAWS OF THE STATE IN WHICH THE PREMISES ARE LOCATED.

The parties hereto have executed this Lease at the place and on the dates specified above their respective signatures.

Executed at: _____
On: _____

By LESSOR:
J&J Investments

By: _____
Name Printed: Joe Peterson
Title: _____
Phone: _____
Fax: _____
Email: joepeterson.design@gmail.com

By: _____
Name Printed: _____
Title: _____
Phone: _____
Fax: _____
Email: _____
Address: _____
Federal ID No.: _____

BROKER

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Executed at: _____
On: _____

By LESSEE:
Salton Sea Authority

By: _____
Name Printed: G. Patrick O'Dowd
Title: Executive Director/General Manager
Phone: 760-238-7777
Fax: _____
Email: gpodowd@saltonsea.com

By: _____
Name Printed: _____
Title: _____
Phone: _____
Fax: _____
Email: _____
Address: _____
Federal ID No.: _____

BROKER

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Lee & Associates CRES - Palm Desert

Attn: Dave Rapp

Title: _____

Address: _____

Phone: _____

Fax: _____

Email: _____

Federal ID No.: _____

Broker DRE License #: 01911964

Agent DRE License #: _____

Attn: _____

Title: _____

Address: _____

Phone: _____

Fax: _____

Email: _____

Federal ID No.: _____

Broker DRE License #: _____

Agent DRE License #: _____

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DISCLOSURE REGARDING REAL ESTATE AGENCY RELATIONSHIP

(As required by the Civil Code)

When you enter into a discussion with a real estate agent regarding a real estate transaction, you should from the outset understand what type of agency relationship or representation you wish to have with the agent in the transaction.

SELLER'S AGENT

A Seller's agent under a listing agreement with the Seller acts as the agent for the Seller only. A Seller's agent or a subagent of that agent has the following affirmative obligations:

To the Seller: A fiduciary duty of utmost care, integrity, honesty and loyalty in dealings with the Seller.

To the Buyer and the Seller:

- (a) Diligent exercise of reasonable skill and care in performance of the agent's duties.
- (b) A duty of honest and fair dealing and good faith.
- (c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the parties.

An agent is not obligated to reveal to either party any confidential information obtained from the other party that does not involve the affirmative duties set forth above.

BUYER'S AGENT

A Buyer's agent can, with a Buyer's consent, agree to act as agent for the Buyer only. In these situations, the agent is not the Seller's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Seller. An agent acting only for a Buyer has the following affirmative obligations:

To the Buyer: A fiduciary duty of utmost care, integrity, honesty and loyalty in dealings with the Buyer.

To the Buyer and the Seller:

- (a) Diligent exercise of reasonable skill and care in performance of the agent's duties.
- (b) A duty of honest and fair dealing and good faith.
- (c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the parties.

An agent is not obligated to reveal to either party any confidential information obtained from the other party that does not involve the affirmative duties set forth above.

AGENT REPRESENTING BOTH SELLER AND BUYER

A real estate agent, either acting directly or through one or more salesperson and broker associates, can legally be the agent of both the Seller and the Buyer in a transaction, but only with the knowledge and consent of both the Seller and the Buyer.

In a dual agency situation, the agent has the following affirmative obligations to both the Seller and the Buyer:

- (a) A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either the Seller or the Buyer.
- (b) Other duties to the Seller and the Buyer as stated above in their respective sections.

In representing both Seller and Buyer, a dual agent may not, without the express permission of the respective party, disclose to the other party confidential information, including, but not limited to, facts relating to either the Buyer's or Seller's financial position, motivations, bargaining position, or other personal information that may impact price, including the Seller's willingness to accept a price less than the listing price or the Buyer's willingness to pay a price greater than the price offered.

SELLER AND BUYER RESPONSIBILITIES

Either the purchase agreement or a separate document will contain a confirmation of which agent is representing you and whether that agent is representing you exclusively in the transaction or acting as a dual agent. Please pay attention to that confirmation to make sure it accurately reflects your understanding of your agent's role. The above duties of the agent in a real estate transaction do not relieve a Seller or Buyer from the responsibility to protect his or her own interests. You should carefully read all agreements to assure that they adequately express your understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional. If you are a Buyer, you have the duty to exercise reasonable care to protect yourself, including as to those facts about the property which are known to you or within your diligent attention and observation. Both Sellers and Buyers should strongly consider obtaining tax advice from a competent professional because the federal and state tax consequences of a transaction can be complex and subject to change.

Throughout your real property transaction you may receive more than one disclosure form, depending upon the number of agents assisting in the transaction. The law requires each agent with whom you have more than a casual relationship to present you with this disclosure form. You should read its contents each time it is presented to you, considering the relationship between you and the real estate agent in your specific transaction. **This disclosure form includes the provisions of Sections 2079.13 to 2079.24, inclusive, of the Civil Code set forth on page 2. Read it carefully. I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS DISCLOSURE AND THE PORTIONS OF THE CIVIL CODE PRINTED ON THE BACK (OR A SEPARATE PAGE).**

Buyer Seller Lessor Lessee _____ Date: _____

Buyer Seller Lessor Lessee _____ Date: _____

Agent: Lee & Associates - CRES Palm Desert DRE Lic. #: 01911964
Real Estate Broker (Firm)

By: Dave Rapp DRE Lic. #: 01715126 Date: 3/15/24
(Salesperson or Broker-Associate)

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**DISCLOSURE REGARDING REAL ESTATE AGENCY RELATIONSHIP
CIVIL CODE SECTIONS 2079.13 THROUGH 2079.24 (2079.16 APPEARS ON THE FRONT)**

2079.13. As used in Sections 2079.7 and 2079.14 to 2079.24, inclusive, the following terms have the following meanings:

(a) "Agent" means a person acting under provisions of Title 9 (commencing with Section 2295) in a real property transaction, and includes a person who is licensed as a real estate broker under Chapter 3 (commencing with Section 10130) of Part 1 of Division 4 of the Business and Professions Code, and under whose license a listing is executed or an offer to purchase is obtained. The agent in the real property transaction bears responsibility for that agent's salespersons or broker associates who perform as agents of the agent. When a salesperson or broker associate owes a duty to any principal, or to any buyer or seller who is not a principal, in a real property transaction, that duty is equivalent to the duty owed to that party by the broker for whom the salesperson or broker associate functions. **(b)** "Buyer" means a transferee in a real property transaction, and includes a person who executes an offer to purchase real property from a seller through an agent, or who seeks the services of an agent in more than a casual, transitory, or preliminary manner, with the object of entering into a real property transaction. "Buyer" includes vendee or lessee of real property. **(c)** "Commercial real property" means all real property in the state, except (1) single-family residential real property, (2) dwelling units made subject to Chapter 2 (commencing with Section 1940) of Title 5, (3) a mobile home, as defined in Section 798.3, (4) vacant land, or (5) a recreational vehicle, as defined in Section 799.29. **(d)** "Dual agent" means an agent acting, either directly or through a salesperson or broker associate, as agent for both the seller and the buyer in a real property transaction. **(e)** "Listing agreement" means a written contract between a seller of real property and an agent, by which the agent has been authorized to sell the real property or to find or obtain a buyer, including rendering other services for which a real estate license is required to the seller pursuant to the terms of the agreement. **(f)** "Seller's agent" means a person who has obtained a listing of real property to act as an agent for compensation. **(g)** "Listing price" is the amount expressed in dollars specified in the listing for which the seller is willing to sell the real property through the seller's agent. **(h)** "Offering price" is the amount expressed in dollars specified in an offer to purchase for which the buyer is willing to buy the real property. **(i)** "Offer to purchase" means a written contract executed by a buyer acting through a buyer's agent that becomes the contract for the sale of the real property upon acceptance by the seller. **(j)** "Real property" means any estate specified by subdivision (1) or (2) of Section 761 in property, and includes (1) single-family residential property, (2) multi-unit residential property with more than four dwelling units, (3) commercial real property, (4) vacant land, (5) a ground lease coupled with improvements, or (6) a manufactured home as defined in Section 18007 of the Health and Safety Code, or a mobile home as defined in Section 18008 of the Health and Safety Code, when offered for sale or sold through an agent pursuant to the authority contained in Section 10131.6 of the Business and Professions Code. **(k)** "Real property transaction" means a transaction for the sale of real property in which an agent is retained by a buyer, seller, or both a buyer and seller to act in that transaction, and includes a listing or an offer to purchase. **(l)** "Sell," "sale," or "sold" refers to a transaction for the transfer of real property from the seller to the buyer and includes exchanges of real property between the seller and buyer, transactions for the creation of a real property sales contract within the meaning of Section 2985, and transactions for the creation of a leasehold exceeding one year's duration. **(m)** "Seller" means the transferor in a real property transaction and includes an owner who lists real property with an agent, whether or not a transfer results, or who receives an offer to purchase real property of which he or she is the owner from an agent on behalf of another. "Seller" includes both a vendor and a lessor of real property. **(n)** "Buyer's agent" means an agent who represents a buyer in a real property transaction.

2079.14. A seller's agent and buyer's agent shall provide the seller and buyer in a real property transaction with a copy of the disclosure form specified in Section 2079.16, and shall obtain a signed acknowledgment of receipt from that seller and buyer, except as provided in Section 2079.15, as follows: **(a)** The seller's agent, if any, shall provide the disclosure form to the seller prior to entering into the listing agreement. **(b)** The buyer's agent shall provide the disclosure form to the buyer as soon as practicable prior to execution of the buyer's offer to purchase. If the offer to purchase is not prepared by the buyer's agent, the buyer's agent shall present the disclosure form to the buyer not later than the next business day after receiving the offer to purchase from the buyer.

2079.15. In any circumstance in which the seller or buyer refuses to sign an acknowledgment of receipt pursuant to Section 2079.14, the agent shall set forth, sign, and date a written declaration of the facts of the refusal.

2079.16 Reproduced on Page 1 of this AD form.

2079.17(a) As soon as practicable, the buyer's agent shall disclose to the buyer and seller whether the agent is acting in the real property transaction as the buyer's agent, or as a dual agent representing both the buyer and the seller. This relationship shall be confirmed in the contract to purchase and sell real property or in a separate writing executed or acknowledged by the seller, the buyer, and the buyer's agent prior to or coincident with execution of that contract by the buyer and the seller, respectively. **(b)** As soon as practicable, the seller's agent shall disclose to the seller whether the seller's agent is acting in the real property transaction as the seller's agent, or as a dual agent representing both the buyer and seller. This relationship shall be confirmed in the contract to purchase and sell real property or in a separate writing executed or acknowledged by the seller and the seller's agent prior to or coincident with the execution of that contract by the seller.

(C) CONFIRMATION: The following agency relationships are confirmed for this transaction.

Seller's Brokerage Firm DO NOT COMPLETE, SAMPLE ONLY License Number _____

Is the broker of (check one): the seller; or both the buyer and seller. (dual agent)

Seller's Agent DO NOT COMPLETE, SAMPLE ONLY License Number _____

Is (check one): the Seller's Agent. (salesperson or broker associate); or both the Buyer's Agent and the Seller's Agent. (dual agent)

Buyer's Brokerage Firm DO NOT COMPLETE, SAMPLE ONLY License Number _____

Is the broker of (check one): the buyer; or both the buyer and seller. (dual agent)

Buyer's Agent DO NOT COMPLETE, SAMPLE ONLY License Number _____

Is (check one): the Buyer's Agent. (salesperson or broker associate); or both the Buyer's Agent and the Seller's Agent. (dual agent)

(d) The disclosures and confirmation required by this section shall be in addition to the disclosure required by Section 2079.14. An agent's duty to provide disclosure and confirmation of representation in this section may be performed by a real estate salesperson or broker associate affiliated with that broker.

2079.18 (Repealed pursuant to AB-1289, 2017-18 California Legislative session)

2079.19 The payment of compensation or the obligation to pay compensation to an agent by the seller or buyer is not necessarily determinative of a particular agency relationship between an agent and the seller or buyer. A listing agent and a selling agent may agree to share any compensation or commission paid, or any right to any compensation or commission for which an obligation arises as the result of a real estate transaction, and the terms of any such agreement shall not necessarily be determinative of a particular relationship.

2079.20 Nothing in this article prevents an agent from selecting, as a condition of the agent's employment, a specific form of agency relationship not specifically

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prohibited by this article if the requirements of Section 2079.14 and Section 2079.17 are complied with.

2079.21 (a) A dual agent may not, without the express permission of the seller, disclose to the buyer any confidential information obtained from the seller. **(b)** A dual agent may not, without the express permission of the buyer, disclose to the seller any confidential information obtained from the buyer. **(c)** "Confidential information" means facts relating to the client's financial position, motivations, bargaining position, or other personal information that may impact price, such as the seller is willing to accept a price less than the listing price or the buyer is willing to pay a price greater than the price offered. **(d)** This section does not alter in any way the duty or responsibility of a dual agent to any principal with respect to confidential information other than price.

2079.22 Nothing in this article precludes a seller's agent from also being a buyer's agent. If a seller or buyer in a transaction chooses to not be represented by an agent, that does not, of itself, make that agent a dual agent.

2079.23 (a) A contract between the principal and agent may be modified or altered to change the agency relationship at any time before the performance of the act which is the object of the agency with the written consent of the parties to the agency relationship. **(b)** A lender or an auction company retained by a lender to control aspects of a transaction of real property subject to this part, including validating the sales price, shall not require, as a condition of receiving the lender's approval of the transaction, the homeowner or listing agent to defend or indemnify the lender or auction company from any liability alleged to result from the actions of the lender or auction company. Any clause, provision, covenant, or agreement purporting to impose an obligation to defend or indemnify a lender or an auction company in violation of this subdivision is against public policy, void, and unenforceable.

2079.24 Nothing in this article shall be construed to either diminish the duty of disclosure owed buyers and sellers by agents and their associate licensees, subagents, and employees or to relieve agents and their associate licensees, subagents, and employees from liability for their conduct in connection with acts governed by this article or for any breach of a fiduciary duty or a duty of disclosure.

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**RENT ADJUSTMENT(S)
(ORIGINAL TERM)
STANDARD LEASE ADDENDUM**

Dated: March 15, 2024

By and Between

Lessor: J&J Investments

Lessee: Salton Sea Authority

Property Address: 82500 Highway 111 Suite 4 Indio, CA 92201
(street address, city, state, zip)

Paragraph: 51

The monthly Base Rent during the Original Term of the Lease shall be increased by using the method(s) selected below (*check method(s) to be used and fill in appropriately*):

I. Consumer Price Index.

a. The monthly Base Rent shall be increased on _____ and every _____ months thereafter during the Original Term ("**CPI Increase Date(s)**") commensurate with the increase in the CPI (as herein defined) determined as follows: the monthly Base Rent scheduled for the first month of the Original Term shall be multiplied by a fraction the denominator of which is the Base CPI (as herein defined), and the numerator of which is the Comparison CPI (as herein defined). The amount so calculated shall constitute the new Base Rent until the next CPI Increase Date, but in no event shall any such new Base Rent be less than the Base Rent for the month immediately preceding the applicable CPI Increase Date.

b. The term "**CPI**" shall mean the Consumer Price Index of the Bureau of Labor Statistics of the U.S. Department of Labor for (*select one*): CPI W (Urban Wage Earners and Clerical Workers) or CPI U (All Urban Consumers), for (*fill in Urban Area*): _____ or the area in which the Premises is located, All Items (1982-1984 = 100). The term "**Comparison CPI**" shall mean the CPI of the calendar month which is 2 full months prior to the applicable Original Term CPI Increase Date. The term "**Base CPI**" shall mean the CPI of the calendar month which is 2 full months prior to the Commencement Date of the Original Term.

c. If the compilation and/or publication of the CPI is transferred to another governmental department, bureau or agency or is discontinued, then instead the index most nearly the same as the CPI shall be used to calculate the Base Rent increases hereunder. If the Parties cannot agree on such alternative index, then the matter shall be submitted for decision to the American Arbitration Association in accordance with the then rules of said association and the decision of the arbitrators shall be binding upon the parties, with the cost of such arbitration being paid equally by the Parties.

II. Fixed Percentage. The monthly Base Rent shall be increased on _____ and every _____ months thereafter during the Original Term ("**Percentage Increase Date(s)**") by _____ percent (_____ %) of the monthly Base Rent scheduled to be paid for the month immediately preceding the applicable Percentage Increase Date.

III. Fixed Rental Adjustment(s) ("FRA").

The monthly Base Rent shall be increased to the following amounts on the dates set forth below:

On (fill in FRA Adjustment Date(s)):	The new Base Rent shall be:
<u>May 1, 2025 - April 30, 2026</u>	<u>\$1,250.00 per Month</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

BROKER'S FEE: For each adjustment in Base Rent specified above, the Brokers shall be paid a Brokerage Fee in accordance with paragraph 15 of the Lease or if applicable, paragraph 9 of the Sublease.

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Memorandum

To: Salton Sea Authority Board of Directors
From: G. Patrick O'Dowd, Executive Director /GM
Date: March 21, 2024

Re: Insurance Renewal – Cal Mutuals JPRIMA

The Salton Sea Authority has been insured for many years by California Association of Mutal Water Companies (CalMutual) Joint Powers Risk and Insurance Management Authority (JPRIMA), with a relatively stable rate history. As we are finding broadly throughout the insurance industry, this year the Authority's premiums for coverage increased 20% over the prior year, from \$10,529.00 in 2023 to a current quote of \$12,675.00. Current insurance coverage expires on April 1, 2024.

Staff Recommendation: Approve payment of insurance premium of \$12,675.00 and explore other insurance options, including ACWA JPIA.



**CALIFORNIA ASSOCIATION OF MUTUAL WATER COMPANIES
JOINT POWERS RISK AND INSURANCE MANAGEMENT AUTHORITY (JPRIMA)
PACKAGE/AUTO/EXCESS**

COVERAGE PROPOSAL FOR:

Salton Sea Authority

COVERAGE PERIOD:

4/1/2024 - 4/1/2025

PRESENTED BY:

Allied Community Insurance Services

PROGRAM MANAGER

Allied Public Risk, LLC

CA DBA: Allied Community Insurance Services, LLC

CA License No. 0L01269

National Producer No. 17536322

www.alliedpublicrisk.com

(858) 866-8966

PREMIUM SUMMARY

NOTE: This proposal is prepared from information supplied to us on the application submitted by you or your insurance broker. It may or may not contain all terms requested on the application. Please review carefully and let us know if any additional information is required. In addition, this proposal may contain unintentional errors or omissions. We encourage you to bring them to our attention for review. This proposal does not amend, or otherwise affect or alter, the provisions of coverage provided. This proposal does not guarantee coverage for specific claims or losses under the policy. The availability of coverage depends on the JPRIMA Memorandum of Coverage (MOC) and is subject to its terms and conditions, the facts surrounding any potential claims, and relevant legal requirements. A specimen MOC is available for your review, as is the JPRIMA Member Agreement. Enrollment in the JPRIMA requires execution of the JPRIMA Member Agreement as well as membership in the California Association of Mutual Water Companies (Cal Mutuals).

SECTION	COVERAGE		PREMIUM
1	PROPERTY (Including Equipment Breakdown, if granted)	\$	408.00
2	INLAND MARINE	\$	N/A
3	COMMERCIAL CRIME (Including Faithful Performance, if granted)	\$	792.00
4	COMMERCIAL GENERAL LIABILITY	\$	3,626.00
5	PUBLIC OFFICIALS & MANAGEMENT LIABILITY (Including Wrongful Acts, Employment Practices, or Employee Benefits, if granted)	\$	2,685.00
6	BUSINESS AUTO	\$	N/A
7	COMMERCIAL EXCESS LIABILITY (Including Commercial General Liability, Wrongful Acts, Employment Practices, Employee Benefits, Business Auto, and Employers Liability, if granted)	\$	3,922.00
	MEMBER CONTRIBUTION (excludes state-imposed taxes, surcharges, and fees)	\$	11,433.00
	JPRIMA ADMINISTRATION FEES	\$	1,242.00
	TOTAL AMOUNT DUE*	\$	12,675.00

*Payment is due within 30 days of the effective date.

NOTES:

The JPRIMA MOC has a common anniversary date of April 1.

The Member's FEIN number is required in order to bind coverage.

Terrorism Coverage is automatically included for Property, General Liability and Excess in most regions of CA.

MEMBER: Salton Sea Authority
EFFECTIVE DATE: 4/1/2024

DISCLAIMER: Actual coverage is subject to the language of the policies as issued.
Your issued policy may contain limits, exclusions, and limitations that are not detailed in this proposal.

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Section 1. PROPERTY (Included in the proposal? Yes)

ISSUER:	<ul style="list-style-type: none"> California Association of Mutual Water Companies Joint Powers Risk and Insurance Management Authority (JPRIMA) No Joint and Several Liability for Members 100% Reinsured
REINSURER	<ul style="list-style-type: none"> A+ XV (Superior) A.M. Best Rating AA- Standard & Poor's Rating
FORM:	Proprietary & Integrated

LIMITS

Total Insured Values: (Real Property & Business Personal Property)	\$34,240	
Loss of Income (aka: Business Income)	\$250,000	
Extra Expense	\$250,000	
Equipment Breakdown	\$34,240	
*Flood Zone Low/Moderate <u>[N/A]</u> (Each Occurrence)	Excluded	

* Munich/APR cannot warrant or provide information as to what zone(s) a specific location/address is situated in. Flood zones can and do change. It is ultimately the responsibility of the member and their insurance advisor to determine if the flood zones and flood limits proposed are adequate for their needs.

DEDUCTIBLES

Property Deductible (per occurrence)	\$5,000	Flood Zone Low/Moderate (\$) Deductible (per occurrence)	N/A
Equipment Breakdown Deductible (per occurrence) – aboveground and less than 50 feet belowground	\$1,000	Flood Zone Low/Moderate (%) Deductible (per occurrence)	N/A
Equipment Breakdown Deductible (per occurrence) – greater than 50 feet belowground	\$2,500		

COVERED LOCATIONS:

Per Statement of Values: Blanket coverage applies unless otherwise noted.

SCHEDULE OF PROPERTY LIMITS – INDIVIDUAL LIMITS

LOC./BLDG NUM	BUILDING DESCRIPTION	BUILDING VALUE	CONTENTS VALUE	TOTAL INSURED VALUE	VALUATION	COINS. %
---------------	----------------------	----------------	----------------	---------------------	-----------	----------

This schedule does not apply.

COINSURANCE: N/A

POLICY HIGHLIGHTS:

- Broad Definition of Covered Property
- Option for Special Property Floater
- Form: Special Form (including Theft)
- Proprietary Coverage Extensions

MEMBER: Salton Sea Authority
EFFECTIVE DATE: 4/1/2024

DISCLAIMER: Actual coverage is subject to the language of the policies as issued. Your issued policy may contain limits, exclusions, and limitations that are not detailed in this proposal.

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VALUATION:

- Replacement Cost: Real Property & Business Personal Property (All Buildings subject to Property Valuation²)
- Actual Loss Sustained: Loss of Income (aka: Business Income)
- Optional Extended Business Income & Extra Expense (12 months or \$1,000,000, whichever is less)

²Functional Replacement Cost and/or Actual Cash Value are available for older and lower valued buildings.

SELECTED OPTIONAL COVERAGES:

SCADA Upgrades
Unintentional Errors
Extension of Coverage Utility Services - Direct Damage

KEY EXCLUSIONS:

- Earthquake & Earth Movement
- Flood (unless coverage is designated above, such coverage would be limited to locations in Zone X (Unshaded)/C only)

SPECIAL COVERAGES

Newly Acquired or Under Construction Real Property and Related Personal Property: Pays up to \$1,000,000 for your newly acquired real property or under construction “real property” intended for use in your “operations” acquired or where construction began after policy inception. This applies to “real property” you buy, lease, rent, or construction, including temporary structures. An additional \$500,000 limit of insurance applies to “personal property” located at new premises.

Equipment Breakdown³: Pays up to the limit in the declarations for direct physical damage to covered real property or personal property and loss of income sustained and extra expense incurred that is the result of an accident or electronic circuitry impairment. The most paid under any one equipment breakdown is the limit for real property and personal property for the applicable premises. The most paid for loss of income or extra expense in any one equipment breakdown is the limit of insurance shown in the declarations under C. Loss of Income and D. Extra Expense, respectively. The limits in this extension are part of and not in addition to the limits applicable in Section I – Coverages.

Under this extension, the following coverages also apply to loss caused by or directly resulting from an accident or electronic circuitry impairment. However, with respect to coverage (9) Service Interruption below, coverage will apply only to the direct result of an accident and will not apply to the direct result of an electronic circuitry impairment. The coverages described in (1) through (10) below do not provide additional amounts of insurance, they are part of and not in addition to the applicable limits of insurance:

- (1) **Data Restoration** – Pays up to your reasonable and necessary cost to research, replace and restore lost electronic data. The most we will pay for loss, damage, or expense for electronic data restoration including actual loss of income you sustain and necessary extra expense you incur is **\$500,000**.
- (2) **Expediting Expenses** – With respect to your covered real property and personal property that is damaged, we will pay the reasonable cost to make temporary repairs; and expedite permanent repairs or permanent replacement. The most we will pay for loss or expense under this coverage is **\$100,000**.
- (3) **Extra Expense** – Extra expense is extended to apply to extra expense incurred as a result of an accident or electronic circuitry impairment covered under this extension, and subject to the policy limit.
- (4) **Green** – Subject to more extensive provisions outlined in the policy, we will pay additional costs for the repair, replacement, disposal, etc. and/or damages as they relate to items associated with a recognized environmental standards program. The most we will pay for any qualifying loss, damage, or expense under this coverage, including actual loss of Business Income you sustain and any necessary Extra Expense you incur is **\$100,000**.
- (5) **Hazardous Substances** – Pays for the additional cost to repair or replace covered real property or personal property because of contamination by a hazardous substance. This includes the additional expense to clean up or dispose of such property. This does not include contamination of perishable goods by refrigerant. The most we will pay for loss, damage, or expense under this coverage, including actual loss of income you sustain and necessary extra expense you incur is **\$250,000**.
- (6) **Loss of Income** – Loss of Income is extended to apply to loss of income sustained as a result of an accident or electronic circuitry impairment covered under this extension, and subject to the policy limit as show in the Equipment Breakdown Coverage Supplemental Declarations.
- (7) **Off-Premises Equipment Breakdown** – Subject to more extensive provisions outlined in the policy, this extends coverage to apply to an accident or electronic circuitry impairment for the following types of equipment used in the member’s firefighting, ambulance or rescue operations, whether mobile/portable or permanently mounted on a vehicle, anywhere in the policy territory: 1) mobile cascade units; 2) mobile electrical generators; 3) portable pumping units; and 4) portable extrication devices, such as jaws-of-life. For equipment other than that used in your firefighting, ambulance or rescue operations, we will pay for physical damage to transportable covered equipment that, at the time of the accident or impairment is not at a covered location, among other offerings. The most we will pay is **\$25,000**.

MEMBER: Salton Sea Authority
EFFECTIVE DATE: 4/1/2024

DISCLAIMER: Actual coverage is subject to the language of the policies as issued.
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- (8) Public Relations** – Subject to you sustaining an actual loss of income covered under this extension, this pays for reasonable costs for professional services to create and disseminate communications, when the need for such communications arises direction for the interruption of your business. Communication must be directed to the media, public, or your customers/clients/members. Costs are subject to being incurred during the period of restoration + 30 days. The most we will pay for loss or expense under this coverage is **\$5,000**.
- (9) Service Interruption** – Subject to more extensive provisions outlined in the policy, any insurance provided for loss of income, extra expense, data restoration or spoilage is extended to apply to your loss, damage, or expense caused by a failure or disruption of service.
- (10) Spoilage** – We will pay for physical damage to perishable goods due to spoilage; for physical damage to perishable goods due to contamination from the release of refrigerant; and/or any necessary expenses you incur to reduce the amount of loss under this coverage. Valuation and replacement conditions apply. The most we will pay for loss, damage or expense under this coverage is **\$100,000**.

³Please consult the exact policy language for all provisions that apply to each of the above Equipment Breakdown coverage.

Pollution Remediation Expenses: Pays up to \$25,000 (covered cause of loss) or \$100,000 (specified cause of loss) for remediation expenses incurred as a result of an actual, alleged, or threatened presence of pollution conditions at a premises described in the Declarations from a Covered Causes of Loss or Specified Cause of Loss occurring during the policy period and reported within 180 days. Covered Causes of Loss means risks of direct physical loss unless the loss is excluded or limited by the Property Coverage Form. Limits may be increased for a charge.

Specified Cause of Loss means the following: fire, lightning, windstorm or hail, explosion, riot or civil commotion, vehicles or aircraft, smoke, sonic boom, vandalism and malicious mischief, sprinkler leakage, sinkhole collapse, volcanic action, falling objects, weight of ice, snow or sleet, or water damage. Water damage means only accidental discharge or leakage of water or steam as the direct result of the breaking or cracking of any part of a system or appliance containing water or steam.

Property In Transit or Off Premises: Pays up to \$100,000 for direct physical loss or damage to covered property (real and personal property) while in transit or while temporarily off premises caused by a covered cause of loss, including your covered computer hardware while off premises.

SCADA Upgrades: Pays up to \$100,000 to upgrade your scheduled SCADA system after direct physical loss from a Covered Cause of Loss. The upgrade is in addition to its replacement cost. SCADA means the Supervisory Control and Data Acquisition system used in water and wastewater treatment and distribution to monitor leaks, waterflow, water analysis, and other measurable items necessary to maintain operations.

Unintentional Errors: Pays up to \$250,000 for any unintentional error or omission you make in determining or reporting values or in describing the covered property or covered locations.

Personal Effects: Pays up to \$25,000 for direct physical loss or damage to personal effects owned by you, your officers, managers, elected or appointed officials, employees, or volunteer workers caused by a covered cause of loss at your premises. Will pay up to "replacement cost."

Lock Replacement: Pays up to \$25,000 for lock, lock cylinder, & key replacement after theft at covered premises or damage to a lock as a result of a covered cause of loss at a covered premises. No deductible applies.

Foundations: Your real property includes foundations located at a described premise.

KEY DEFINITIONS

Covered Equipment: Means covered real property and personal property that generates, transmits, or utilizes energy or which, during normal usage, operates under vacuum or pressure, other than the weight of its contents. Covered equipment may utilize conventional design and technology or new or newly commercialized design and technology.

None of the following is covered equipment: (a) structures, foundation, cabinet or compartment; (b) insulating or refractory material; (c) sewer piping, buried vessels or piping, piping forming or part of a sprinkler or fire suppression system; (d) water piping other than boiler feedwater piping, boiler condensate return piping or water piping form as part of a refrigerating or air conditioning system; (e) vehicle or any equipment mounted on a vehicle; (f) satellite, spacecraft or any equipment mounted on a satellite or spacecraft; (g) dragline, excavation, or construction equipment; (h) equipment manufactured by you for sale; or (h) electronic data.

Electronic Circuitry: Means microelectronic components, including but not limited to circuit boards, integrated circuits, computer chips, and disk drives.

Electronic Circuitry Impairment:

- (a) Means a fortuitous event involving electronic circuitry within covered equipment to suddenly lose its ability to function as it had been functioning immediately before such event. This definition is subject to the conditions specified in (b), (c), and (d) below.
- (b) We shall determine that the reasonable and appropriate remedy to restore such covered equipment's ability to function is the replacement of one or more electronic circuitry components of the covered equipment.
- (c) The covered equipment must be owned or leased by you or operated under your control.
- (d) None of the following is an electronic circuitry impairment:
 - (i) Any condition that can be reasonably remedied by:
 - 1) Normal maintenance, including but not limited to replacing expendable parts, recharging batteries or cleaning;
 - 2) Rebooting, reloading, or updating software or firmware; or
 - 3) Providing necessary power or supply.
 - (ii) Any condition caused by or related to:
 - 1) Incompatibility of the covered equipment with any software or equipment installed, introduced, or networked within the prior 30 days; or
 - 2) Insufficient size, capability, or capacity of the covered equipment;
 - 3) Exposure to adverse environmental conditions, including but not limited to change in temperature or humidity, unless such conditions result in an observable loss of functionality. Loss of warranty shall not be considered an observable loss of functionality.

Outdoor Property: Fixed or permanent structures including but not limited to:

- › Docks, wharves, piers, pilings, or bulkheads;
- › Dumpsters, concrete trash containers, or permanent recycling bins;
- › Electric utility power transmission and distribution lines, poles and related equipment owned by the member;
- › Exterior signs not located at a premises;
- › Fences and retaining walls;
- › Historical markers and flagpoles;
- › Hydrants, not associated with a sprinkler system;
- › Lighting towers;
- › Playground equipment, park shelters, pedestrian-only bridges, picnic tables, water fountains or coolers, benches, dugouts, bleachers, or scoreboards;
- › Storage sheds, garages, pavilions, or other similar buildings or structures not located at a premises; or
- › Traffic lights, streetlights, traffic signs, parking meters, or bus shelters.

Personal Property: Means all property used in your operations other than real property, including but, not limited to:

- › Furnishings and office equipment
- › Building contents;
- › Computer equipment;
- › Communication systems;

- Materials, supplies (including your inventory of vehicle parts and supplies) while held on your premises awaiting installation;
- Base stations and dispatching systems, provided the property is on your premises and also provided you own the property, or the property is in your custody or control, and you are responsible for it, even though it belongs to someone else;
- Value of your right to use improvements made as a tenant, if you have paid for alterations or additions to any building or structure that you do not own (improvements must be at a premises).

Pollution Conditions: The discharge, dispersal, release, seepage, migration, or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, hazardous materials, waste materials (including medical, infectious and pathological wastes) or electromagnetic fields into or upon land or any structures thereon, the atmosphere, or any watercourse or body of water including groundwater.

Real Property: The items at a premises described in the Declarations.

This includes:

- Aboveground piping;
- Aboveground and belowground “penstock”;
- Additions under construction;
- Air cascade units that are not designed to be used off “premises”;
- All appurtenant buildings or structures other than playground equipment, park shelters, pedestrian-only bridges, picnic tables, water fountains or coolers, benches, dugouts, bleachers, or scoreboards;
- Alterations and repairs to the buildings or structures;
- Completed additions;
- Exterior signs, meaning neon, automatic, mechanical, electric or other signs either attached to the outside of a building or structure, or standing free in the open;
- Foundations;
- Materials, equipment, supplies and temporary structures you own or for which you are responsible, on the “premises” or in the open (including property inside “vehicles”) within 1,000 feet of the “premises”, used for making additions, alterations or repairs to buildings or structures at the “premises”;
- Outdoor fixtures;
- Paved surfaces such as sidewalks, bike paths, walkways, patios or parking lots;
- Permanently installed fixtures, machinery, and equipment;
- “Personal property” used for the maintenance and service of buildings or structures, including tools, lawn care equipment, and free-standing appliances for refrigerating, ventilating, cooking, dishwashing and laundering;
- Submersible pumps, pump motors and engines; or
- Underground piping located on or within 100 feet of a “premises” described in the Declarations.

Remediation Expenses: Expenses incurred for or in connection with the investigation, monitoring, removal, disposal, treatment, or neutralization of pollution conditions to the extent required by: (1) federal, state or local laws, regulations or any subsequent amendments thereof enacted to address pollution conditions; and (2) a legally executed state voluntary program governing the cleanup of pollution conditions.

Tools and Equipment: All tools and equipment, together with attached devices, accessories and trailers, that are used in your operations. Tools and equipment include, but are not limited to, hand tools, mechanics tools, power tools, meter readers, generators, air compressors, welders, trash pumps, trenchers, saws, jackhammers, maintenance or diagnostic equipment including specialized audio-visual equipment and its associated laptop, as well as recreational equipment, such as outdoor portable seating, temporary stands, food service trailers not licensed for road use, or portable restrooms.

Tools and equipment also include mobile equipment such as, but not limited to, bulldozers, mobile equipment that travels on crawler treads, tractors, loaders, backhoes, excavators, graders, or road surfacing equipment, and equipment whether self-propelled or not, maintained primarily to provide mobility to permanently mounted cranes, shovels, loaders, diggers, and drills. Tools and equipment also include snowplows, salt spreaders, and other similar equipment when not attached to a vehicle.

PROPERTY SUBLIMITS	
Coverage	Limit
Accounts Receivable	\$500,000
Arson, Theft, or Vandalism Information Reward	\$25,000
Building Glass – Tenant	Lesser of replacement cost or amount liable under contract
Claim Expense	\$20,000
Commandeered Property (RC + loss of use)	For the time you officially use the commandeered property + reasonable return time.
Damage to Building from Theft	\$100,000
Debris Removal Expenses	25% + \$100,000
Equipment Breakdown	Building + BPP Limit + Loss of Income & Extra Expense
Fine Arts	\$50,000 (appraised) \$25,000 (unappraised – subject to \$1,500/item max)
Fire Department Charges	\$25,000
Fire Extinguishing Equipment Recharge Costs	“Necessary and reasonable” (per policy)
Limited Coverage for Fungus, Wet Rot or Dry Rot	\$25,000
Lock Replacement	\$25,000
Newly Acquired or Under Construction Real Property (Coverage A) and Related Personal Property (Coverage B)	Coverage A: \$1,000,000 Coverage B: \$500,000
Non-owned Detached Trailers	\$50,000
Ordinance Coverage Coverage A: Undamaged Real Property Coverage B: Demolition Coverage C: Increased Cost	Coverage A: Limit of Insurance (applicable to that item) Coverage B and Coverage C: Greater of 100% of direct physical loss or \$1,000,000
Outdoor Property	\$150,000
Personal Effects	\$25,000
Pollution Remediation Expense (covered cause of loss)	\$25,000
Pollution Remediation Expense (specified cause of loss)	\$100,000
Preservation of Property	Included
Real Property or Personal Property in Transit or Off-Premises	\$100,000
Software	\$500,000
Spoilage Due to Off Premises Electric Service Interruption	\$50,000
Supplementary Provisions for Coverage C. “Loss of Income” and Coverage D “Extra Expense”	Included
Trees, Shrubs, Plants and Lawns (max \$1,000 any one item)	\$25,000
Utility Services – Direct Damage	\$100,000
Valuable Papers and Records	\$500,000
Water Contamination Notification Expense	\$25,000 (annual aggregate)

NOTES:

Contribution is calculated from application’s property schedule (please review property schedule for coverage and limit adequacy).
Flood and Earthquake coverages are excluded.

MEMBER: Salton Sea Authority
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DISCLAIMER: Actual coverage is subject to the language of the policies as issued.
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Section 2. INLAND MARINE (Included in the proposal? No)

ISSUER:	<ul style="list-style-type: none"> ▪ California Association of Mutual Water Companies Joint Powers Risk and Insurance Management Authority (JPRIMA) ▪ No Joint and Several Liability for Members ▪ 100% Reinsured
REINSURER	<ul style="list-style-type: none"> ▪ A+ XV (Superior) A.M. Best Rating ▪ AA- Standard & Poor's Rating
FORM:	Proprietary & Integrated

LIMITS

Coverage A: Blanket Tools and Equipment: (Unscheduled, Maximum \$10,000 any one item)	N/A
Coverage B: Scheduled Equipment:	N/A
Coverage C: Blanket Emergency Services Equipment:	N/A

COVERAGE EXTENSIONS – Adds or extends the coverage under Section I – Coverages. Unless stated otherwise in the policy, a) each extension is limited to direct physical loss or damage cause by or resulting from a covered cause of loss; b) the limits in each extension are in addition to the limits applicable in Section I – Coverages; and c) All other applicable terms and conditions of the coverage form apply to each extension. (**whichever comes first)

Debris Removal Expenses	Max \$15,000 (per occurrence)
Employee Tools (no deductible applies)	Max \$25,000 (per occurrence)
Emergency Services and Law Enforcement Personal Effects (Coverage C extension, no deductible applies)	Replacement Cost
Rented or Borrowed Equipment	
<ul style="list-style-type: none"> ▪ Coverage A: Blanket Tools and Equipment and Coverage C: Blanket Emergency Services Equipment (\$1,000 deductible applies) ▪ Coverage B: Scheduled Equipment (Extended to equipment not owned by you, \$1,000 deductible applies) 	**Replacement Cost or \$10,000 (per occurrence)
	**Actual Cash Value or \$N/A (per occurrence)
Newly Acquired Scheduled Equipment (Coverage B extension, \$1,000 deductible applies)	30 days on Replacement Cost (not to exceed purchase price)
Personal Watercraft and Watercraft (Coverage A & C extension only)	**Replacement Cost or \$25,000 (per occurrence)
Rental Reimbursement for Scheduled Equipment (Coverage B extension, no deductible applies)	Max \$10,000 (per occurrence)
Unmanned Aircraft (\$500 deductible applies)	Max \$25,000 (per occurrence)
Fire Department Charges (no deductible applies)	Max \$1,000 (per occurrence)
Fire Extinguishing Recharge Costs (no deductible applies)	Necessary and Reasonable Costs (extinguishing equipment must be for the protection of your inland marine equipment)

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DEDUCTIBLES		
Coverage A: Blanket Tools and Equipment		N/A
Coverage B: Scheduled Equipment		N/A
Coverage C: Blanket Emergency Services Equipment		N/A

POLICY HIGHLIGHTS:

- Blanket Coverages: “Tools and Equipment” and “Emergency Services Equipment”
- Suite of Coverage Extensions available in the core form.
- Deductible Waiver in certain circumstances for Coverages A & B.
- Service Animal Floater Purchased: N/A – Valuation: Agreed Value (No deductible applies)

VALUATION:

- Coverage A: Blanket Tools and Equipment: Replacement Cost
- Coverage B: Scheduled Equipment: Replacement Cost or Actual Cash Value
- Coverage C: Blanket Emergency Services Equipment: N/A

NOTES:

Inland Marine coverage is excluded.

Section 3. COMMERCIAL CRIME (Included in the proposal? Yes)

ISSUER:	<ul style="list-style-type: none"> ▪ California Association of Mutual Water Companies Joint Powers Risk and Insurance Management Authority (JPRIMA) ▪ No Joint and Several Liability for Members ▪ 100% Reinsured
REINSURER	<ul style="list-style-type: none"> ▪ A+ XV (Superior) A.M. Best Rating ▪ AA- Standard & Poor's Rating
FORM:	Proprietary & Integrated

LIMITS

Coverage Group	Employee Theft	Forgery or Alteration	Theft of Money & Securities (Inside the Premises)	Robbery or Safe Burglary (Inside the Premises)	Outside the Premises	Computer & Funds Transfer Fraud	Money Orders & Counterfeit Money
5	\$250,000	\$250,000	\$250,000	\$100,000	\$250,000	\$250,000	\$250,000

DEDUCTIBLE

\$1,000 (each claim)

POLICY HIGHLIGHTS:

Separate Limits Apply to Each Coverage
 Broad Definition of Employee
 Non-auditable
 Faithful Performance of Duty

NOTES:

Fraudulent Impersonation is excluded.

Section 4. COMMERCIAL GENERAL LIABILITY (Included in the proposal? Yes)

ISSUER:	<ul style="list-style-type: none"> ▪ California Association of Mutual Water Companies Joint Powers Risk and Insurance Management Authority (JPRIMA) ▪ No Joint and Several Liability for Members ▪ 100% Reinsured
REINSURER	<ul style="list-style-type: none"> ▪ A+ XV (Superior) A.M. Best Rating ▪ AA- Standard & Poor's Rating
FORM:	Proprietary & Integrated

LIMITS

General Aggregate	\$10,000,000	
Products & Completed Operations Aggregate	\$10,000,000	
Each Occurrence	\$1,000,000	
Personal & Advertising Injury Limit	\$1,000,000	
Damage to Premises Rented to You	\$1,000,000	
Medical Payments	\$10,000	

DEDUCTIBLE

\$0 (each occurrence)

SELECTED OPTIONAL COVERAGES

Hired/Non-Owned Auto Liability
 Failure to Supply Liability
 Inverse Condemnation

POLICY HIGHLIGHTS:

- Duty to Defend w/ Defense Costs In Addition to Limits
- Broad Definition of Enrolled Named Member – including, but not limited to Employees, Volunteers, Elected or Appointed Officials
- Host Liquor Liability, Unless Otherwise Excluded
- Owned (Up to 100 HP – higher available by endorsement) & Nonowned Watercraft
- Blanket Additional Enrolled Named Member
- Water & Wastewater Testing Errors and Omissions
- Failure to Supply (No ISO limitation)
- Lead (potable water)
- Waterborne Asbestos (potable water)
- Product Recall
- Impaired Property
- Fungi & Bacteria
- Non-auditable

MEMBER: Salton Sea Authority
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SPECIAL COVERAGES

Asbestos: Exclusion exception wherein coverage is provided for bodily injury or property damage arising out of potable water which is supplied to others.

Contractual Liability - Railroads: Coverage is provided for any contract or agreement that indemnifies a railroad for bodily injury or property damage arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing. Available via endorsement only.

Damage to Impaired Property or Property Not Physically Injured: Exclusion exception wherein the Damage to Impaired Property or Property Not Physically Injured exclusion does not apply to potable water, non-potable water, or wastewater as well as any loss of use of other property arising out of a sudden and accidental physical injury to the member's product or work after it has been put to its intended use.

Failure to Supply: Coverage is provided for bodily injury or property damage arising out of the failure of any member to adequately supply water.

Fungi or Bacteria: Exclusion exception wherein the Fungi or Bacteria exclusion does not apply to a) any fungi or bacteria that are on or are contained in a good or product intended for consumption; or b) any injury or damage arising out of or caused by your water, irrigation, or wastewater intake, outtake, reclamation, treatment, or distribution process.

Lead: Exclusion exception to Lead, Electromagnetic Radiation, Nuclear exclusion that creates an exception for potable water you supply to others for claims involving the toxic properties of lead, or any material or substance containing lead.

Recall of Products, Work or Impaired Property: Exclusion exception where in the Recall of Products, Work or Impaired Property exclusion does not apply to potable water, non-potable water, or wastewater.

Pollution: The pollution exclusion contains the following exceptions:

- To bodily injury if sustained within a building owned or occupied by a member and caused by smoke, fumes, vapor, or soot if produced or originating from certain equipment.
- To bodily injury or property damage arising out of heat, smoke, fumes from a hostile fire occurring or originating from certain premises, sites, or locations as outlined in the policy.
- To bodily injury or property damage that occurs as a result of your operations (unless otherwise specifically excluded) including:
 - › Potable water supplied to others;
 - › Chemicals used in your water/wastewater treatment process;
 - › Chemicals you use, apply or store for your ownership, maintenance, or operation of swimming pools;
 - › The use, application or storage of road salt or similar substances designed and used for snow/ice removal;
 - › Natural gas or propane gas you use in your water or wastewater treatment process;
 - › Urgent response for the protection of property, human life, health or safety conducted away from premises you own, rent or occupy;
 - › Training operations;
 - › Water runoff from the cleaning of equipment use in emergency service activities;
 - › Storage or application of pesticides/herbicides if such storage or application meets all standards of any statute, ordinance, regulation or license requirement of any federal, state or local government; or
 - › Fuels, lubricants or other operating fluids needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" subject to additional policy terms.
- › To bodily injury or property damage if such bi/pd is caused by the escape of back-up of sewage or wastewater from any sewage treatment facility or fixed conduit that you own, operate, lease, control.
- › This coverage applies only to a short-term pollution event reported within 14 days after ending and the discharge is accidental, unintended, and stopped asap.

Water & Wastewater Testing Errors and Omissions: Coverage is provided for damages arising out of an act, error, or omission which arises from your water or wastewater testing.

Who is Covered: Coverage is extended to Scheduled Named Members comprising individuals, spouses, partnerships, joint ventures, corporations, trusts, limited liability companies, public entities, operating authorities, boards, commissions, districts, governmental units, nonprofit entities, and other organizations. Members also include: elected or appointed officials; employees or volunteer workers; real estate managers; temporary custodians; legal representatives; medical directors;

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mutual aid agreements; Good Samaritans; owners of commandeered equipment; blanket additional enrolled named members; and newly acquired or formed entities.

KEY DEFINITIONS

Insured (Member) Contract:

- › A contract for a lease or premises (see full terms and conditions).
- › A sidetrack agreement;
- › Any easement or license agreement, except in connection with construction or demolition operations on or within fifty (50) feet of a railroad;
- › An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- › An elevator maintenance agreement;
- › That part of any other contract or agreement pertaining to your operations (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for bodily injury or property damage to a third person or organization (see full terms and conditions).

Suit: Means a civil proceeding in which damages because of bodily injury, property damage, personal and advertising injury, medical incident, law enforcement wrongful act, or a water or wastewater professional activity to which this insurance applies are alleged. Suit includes: a) An arbitration proceeding in which such damages are claimed and to which the member must submit or does submit with our consent; or 2) Any other civil alternative dispute resolution proceeding in which such damages are claimed and to which the member submits with our consent.

NOTES:

Coachella Valley Unified School District will be listed as an additional enrolled named member for the use of its auditorium for Salton Sea Authority board meetings.

Section 5. PUBLIC OFFICIALS & MANAGEMENT LIABILITY (Included in the proposal? Yes)

ISSUER:	<ul style="list-style-type: none"> ▪ California Association of Mutual Water Companies Joint Powers Risk and Insurance Management Authority (JPRIMA) ▪ No Joint and Several Liability for Members ▪ 100% Reinsured
REINSURER	<ul style="list-style-type: none"> ▪ A+ XV (Superior) A.M. Best Rating ▪ AA- Standard & Poor's Rating
FORM:	Proprietary & Integrated

LIMITS			
Coverage A: Wrongful Acts - Employment Practices - Employee Benefits Liability	\$	1,000,000 Included Included	Each Wrongful Act or Offense
Coverage B: Injunctive Relief	\$	5,000	Each Action
Aggregate Limit	\$	10,000,000	Coverage A & B Combined

WRONGFUL ACTS DEDUCTIBLE	EMPLOYMENT PRACTICES DEDUCTIBLE
\$1,000 (each Wrongful Act or Offense Excluding Expenses)	\$25,000 (each Wrongful Act or Offense Including Expenses)
WRONGFUL ACTS RETROACTIVE DATE (CLAIMS-MADE)	EMPLOYMENT PRACTICES RETROACTIVE DATE (CLAIMS-MADE)
N/A	N/A

EMPLOYEE BENEFITS LIABILITY RETROACTIVE DATE (CLAIMS-MADE)
N/A

POLICY HIGHLIGHTS:

- Duty To Defend
- Broad Definition of Named Enrolled Named Member
- Third Party Offense Coverage
- Non-auditable

SELECTED OPTIONAL COVERAGES:

Inverse Condemnation

KEY DEFINITIONS
<p>Employment Practices: Injury, including consequential bodily injury, arising from any of your employment practices including, but not limited to:</p> <ul style="list-style-type: none"> ▸ Discrimination; ▸ Harassment; ▸ Retaliation; ▸ Any actual or alleged wrongful dismissal, discharge, or termination (either actual or constructive) of employment, including breach of an implied employment contract or an implied covenant of good faith and fair dealing in an employment contract; ▸ Any actual or alleged wrongful hiring, demotion, discipline, evaluation, supervision and investigation of an employee or intentional interference with an employment contract; ▸ Any actual or alleged wrongful deprivation of a career opportunity, to promote an employee or the wrongful failure to employ;

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- Any actual or alleged false arrest, false imprisonment, false detention or malicious prosecution, libel, slander, defamation, disparagement or invasion of the right of privacy, as respects employment practices;
- The violation of any federal, state, or local statutes, rules or regulations applicable to employers;
- The development, implementation, and enforcement of any and all practices, policies and procedures governing any aspect of employment practices;

Injunctive or Declaratory Relief: (a) means equitable relief sought through the demand for the issuance of a permanent, preliminary, or temporary injunction, restraining order, or similar prohibitive writ against, or order for specific performance by, a member; or (b) any request that a court make a finding of law or fact, provided such action is filed during the policy period.

Wrongful Act: means any actual or alleged error, act, omission, neglect, misfeasance, nonfeasance, or breach of duty, including violation of any civil rights law, by any member in discharge of their duties individually or collectively that results directly but unexpectedly and unintentionally in damages to others.

NOTES:

Section 6. BUSINESS AUTO (Included in the proposal? No)

ISSUER:	<ul style="list-style-type: none"> ▪ California Association of Mutual Water Companies Joint Powers Risk and Insurance Management Authority (JPRIMA) ▪ No Joint and Several Liability for Members ▪ 100% Reinsured
REINSURER	<ul style="list-style-type: none"> ▪ A+ XV (Superior) A.M. Best Rating ▪ AA- Standard & Poor's Rating
FORM:	Proprietary & Integrated

PORTFOLIO

Coverage	Symbol	Limit
Combined Single Limit for Bodily Injury & Property Damage (each accident)	N/A	N/A
Hired Auto Liability	N/A	N/A
Non-Owned Auto Liability	N/A	N/A
Medical Payments	N/A	N/A
Uninsured / Underinsured Motorists	N/A	N/A
Hired Physical Damage	N/A	N/A
Physical Damage – Comprehensive	N/A	N/A
Physical Damage – Collision	N/A	N/A

DEDUCTIBLE

Liability:	N/A (per accident)
Comprehensive:	N/A (each covered auto)
Collision:	N/A (each covered auto)

FLEET COVERAGE ENHANCEMENTS & COVERAGE EXTENSIONS (As Applicable)

- › Fleet Automatic Coverage
- › Commercial Auto 360 Endorsement
- › Pollution Liability – Broadened Coverage for Covered Autos

NOTES:

Auto coverage is excluded. Please refer to the GL section for Hired and Nonowned Auto Liability.

Section 7. COMMERCIAL EXCESS LIABILITY (Included in the proposal? Yes)

ISSUER:	<ul style="list-style-type: none"> ▪ California Association of Mutual Water Companies Joint Powers Risk and Insurance Management Authority (JPRIMA) ▪ No Joint and Several Liability for Members ▪ 100% Reinsured
REINSURER	<ul style="list-style-type: none"> ▪ A+ XV (Superior) A.M. Best Rating ▪ AA- Standard & Poor's Rating
FORM:	Proprietary & Integrated

LIMITS

\$5,000,000/\$5,000,000

SCHEDULED UNDERLYING COVERAGE FORMS

Commercial General Liability – Included

Auto Liability – Excluded

Public Officials & Management Liability (Wrongful Acts) – Included

Employers' Liability: (minimum underlying limit requirement of \$500,000 / \$500,000 / \$500,000) – Excluded

Other:

NOTABLE COVERAGES INCLUDED IN THE EXCESS (require minimum underlying limits of \$1,000,000)

Law Enforcement Liability (General Liability) – Excluded

Hired and Non-Owned Auto Liability (General Liability) – Included

Abuse and Molestation Coverage (General Liability) - Excluded

Employee Benefit Plans (General Liability) – Excluded

Inverse Condemnation (General Liability) – Included

Hired and Non-Owned Auto Liability (Owned Auto) – Excluded

Employment Practices (POML) – Included

Employee Benefit Plans (POML) – Included

Inverse Condemnation (POML) – Included

NOTABLE EXCLUSIONS:

- Workers' Compensation
- Uninsured Motorists / Underinsured Motorists
- Underlying Limits < \$1,000,000 except for Employer's Liability

NOTES:

Employers' Liability subject to MRSI security requirements.

Please provide a copy of the current W/C declarations for review and affirmation of coverage.

MEMBER: Salton Sea Authority
EFFECTIVE DATE: 4/1/2024

DISCLAIMER: Actual coverage is subject to the language of the policies as issued.
Your issued policy may contain limits, exclusions, and limitations that are not detailed in this proposal.

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Section 8. UNDERWRITING SUBJECTIVITIES AND GENERAL NOTES

ISSUER:	<ul style="list-style-type: none"> ▪ California Association of Mutual Water Companies Joint Powers Risk and Insurance Management Authority (JPRIMA) ▪ No Joint and Several Liability for Members ▪ 100% Reinsured
REINSURER:	<ul style="list-style-type: none"> ▪ A+ XV (Superior) A.M. Best Rating ▪ AA- Standard & Poor's Rating
FORM:	Proprietary & Integrated
MEMBER:	Salton Sea Authority

GENERAL NOTES

QUOTE SUBJECTIVITIES:

THE FOLLOWING ITEMS ARE DUE AT THE TIME OF BINDING:

- ▶ Signed and Dated Public Entity Application and Member FEIN # (required to bind auto).
- ▶ Terrorism: This coverage is included in most jurisdictions (all but 8) without an associated charge for Package (Property/GL). In those instances, a signed selection/rejection is **not** required. In the 8 jurisdictions with an associated charge including the entire State of California for Excess, a signed selection/rejection form is required to be returned at the time of binding.
- ▶ Signed and Dated Uninsured/Underinsured Motorist Selection/Rejection Form.
- ▶ Copy of the latest Dam Inspection reports and member response to any inspection deficiencies, if applicable and not already provided.
- ▶ Signed Statement of Values (Property, Inland Marine and Auto, as applicable).
- ▶ Provide Name, Phone Number, and Email Address for both the Risk Manager and Boiler & Machinery Inspection contacts.
- ▶ Provide a complete driver schedule including name, date of birth, and license number.

MEMBER: Salton Sea Authority
EFFECTIVE DATE: 4/1/2024

DISCLAIMER: Actual coverage is subject to the language of the policies as issued.
 Your issued policy may contain limits, exclusions, and limitations that are not detailed in this proposal.



A D J U S T E R S , I N C

• CLAIMS ADMINISTRATORS • ADJUSTERS • INVESTIGATORS

Stanford Place I - 8055 East Tufts Avenue, Suite 600, Denver, CO 80237 – Ph: 877-533-1211

CLAIM CALL CENTER

**8055 E. Tufts Ave
Suite 600
Denver, CO 80237**

877-533-1211

**Adam Beltz– Ext 765
Reyleen Wood Ext 699
J. Mayer – Ext 664**

**Karen Zapata – Ext. 326
Subrogation Supervisor**

TO REPORT A NEW CLAIM OR LOSS

- **PHONE** **877-533-1211 Option 3
24 Hour Call Center**

- **E-MAIL** **networknewloss@networkadjusters.com**

ALLIED PUBLIC RISK - STATEMENT OF VALUES
 INSURED: Salton Sea Authority
 POLICY YEAR EFFECTIVE: 4/1/2024 - 4/1/2025

LOC./BLDG NUM	ADDRESS	BUILDING DESCRIPTION	INCL IN BLANKET	BUILDING VALUE	CONTENTS VALUE	TOTAL INSURED VALUE	VALUATION	FLOOD (Y or N)	EARTH-QUAKE (Y or N)
1-1	82995 Highway III, Suite 200, Indio, CA 92201	Office Equipment	Yes	\$0	\$34,240	\$34,240	Replacement Cost	N	N

Total Values Subject to the Blanket: \$34,240
 All Other Values: \$0

 PRINTED NAME

 AUTHORIZED SIGNATURE

 DATE

Memorandum

To: Salton Sea Authority Board of Directors
From: G. Patrick O'Dowd, Executive Director /GM
Date: March 21, 2024

Re: CNRA Contract re: Outreach, Engagement, and Education

The subject agreement, executed in September of 2022 will expire on June 30th of this year unless extended. Intended as an operationalization of AB71 and reflecting the letter and spirit of the Memorandum of Understanding between CNRA and the Authority signed in 2020, the agreement contemplated that together we would work on projects to achieve an array of goals to include, inform, and educate stakeholders of the region of the important work taking place at and around the Sea to address the impacts from the Quantification Settlement Agreement.

Due to a variety of challenges, the agreement as originally negotiated has not yet been fully implemented. Those challenges have included (but have been by no means limited to) the delay in implementing the agreement itself – taking well over a year to negotiate and document, extended absence of a leadership counterpart at CNRA, difficulty in recruiting and hiring a well-qualified candidate to spearhead this effort, and lingering effects of the COVID pandemic, all of which have impeded the success of this important work.

In accordance with the terms of the agreement we have requested that CNRA extend this agreement for an additional two-year period, working within the original allocated funds. However, due to the uncertainty of this position it was not included in the operating budget for the Authority in the upcoming fiscal year.



March 5, 2024

Samantha Arthur
Assistant Secretary for Salton Sea Policy
California Natural Resources Agency
(via e-Mail)

Re: Request for Extension - State of California Agreement #OCA21020

Greetings, Assistant Secretary Arthur,

First, we would like to express our appreciation to California Natural Resources Agency (CNRA) and the Department of Water Resources (DWR) for the significant attention given to the challenges at and around the Salton Sea. Though long in coming, the work now being undertaken by the state is having a meaningful impact in addressing the concerns of locals throughout the region.

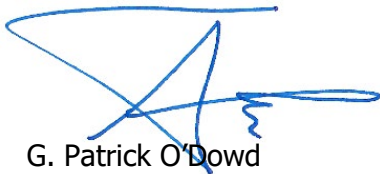
To herald such successes and to assuage the lingering concerns of local residents, visitors, and other regional partners, the Salton Sea Authority (Authority) initiated discussions with CNRA back when Mr. Delgado was at the helm of the SSMP, which resulted in a Memorandum of Understanding between CNRA and the Authority (MOU – copy attached) signed by in February of 2020, which sets forth our mutual goals and objectives. The commitments therein were further evidenced by the CNRA Secretary or his designee – then Assistant Secretary Delgado at the time and now you – joining the Authority board as an ex officio member. That MOU was then used as the foundational document to inform subsequent discussions with CNRA beginning in early in 2021 to develop a collaborative framework for outreach, engagement, and education. Unfortunately, due to COVID and other factors, it took until September of the following year to finally negotiate, document, and execute an agreement (Agreement #OCA21020 Salton Sea Authority_213_Revision) which we all felt would accomplish those goals. Once executed, we were able to immediately launch into one particularly pressing task outlined in the contract, relating to an ongoing CNRA effort (spearheaded by Better World Group) to seek resident input into community amenities. And though we continue to wrestle with some final billing issues related to that effort, all involved at the time believed it to be a great success.

Unfortunately, and in part inherently because of the collaborative arrangement envisioned by the agreement and compounded by difficulties in finding a suitable candidate to lead the effort, the balance of the work remains largely unfulfilled. After extensive efforts and multiple rounds of interviews we were finally able to recruit and hire a well-qualified candidate as our “Public Relations Director” in October of last year. But for a variety of reasons including concerns expressed over the short-term nature of this contract (notwithstanding that the position was underwritten without the contract support as a prerequisite) and a tightening labor market, we lost that candidate to another public agency in late November.

To be clear, the Authority has been and continues to be very active in community engagement, outreach, and education throughout the Imperial and Coachella valleys, meeting regularly with community groups, elected leaders, university students and others to educate and inform the public generally of important concerns and potential solutions. But because the agreement, informed by the MOU and guided by Assembly Bill 71 (2013 – Perez) anticipated this to be a collaborative effort, we have not billed any of our individual effort to the contract. We continue to believe that by working together, utilizing the resources provided under the contract and leveraging the diverse talents resident in our two agencies (including our affiliate agencies) we can have a significant impact in this vitally important area.

We still believe that the effort contemplated by the agreement is as critical now as when it was signed – perhaps more so considering the increased public interest due to the ramping up of the United States Army Corps of Engineers Feasibility Study and the implementation of the Commitments Agreement, neither of which were specifically accounted for when the original agreement was signed. But given the agreement’s pending June 30th expiration, anything that we might start now would certainly fall short in the limited time remaining. Therefore, on behalf of the Board of Directors and the member agencies of the Salton Sea Authority, we are requesting that in accordance with its terms, the agreement be extended for an additional two-year period. No supplemental funding is being requested nor anticipated at this time. We also believe that, in conjunction with any extension, we should revisit the scope to ensure, based on the passage of time and the intervening facts and circumstances (including those discussed earlier), that the contract optimizes our ability to work collaboratively for the benefit of all regional parties in interest. We trust that you will agree, as articulated by AB71, as framed by the MOU, and as outlined in the original agreement, that working together and leveraging our combined effort can provide, that an extension is warranted and should be granted.

Sincerely,



G. Patrick O'Dowd
Executive Director / General Manager

Enclosures

**MEMORANDUM OF UNDERSTANDING BETWEEN
THE CALIFORNIA NATURAL RESOURCES AGENCY AND
THE SALTON SEA AUTHORITY
FOR COLLABORATION AND COOPERATION ON
RESTORATION OF THE SALTON SEA**

This Memorandum of Understanding (“MOU”) is entered into by the California Natural Resources Agency (“CNRA”) and the Salton Sea Authority (“Authority”), each a “Party” and collectively the “Parties,” regarding collaboration and cooperation in the restoration of the Salton Sea, including but not limited to planning and implementation of the Salton Sea Management Program (“SSMP”). The Authority is a California Joint Powers Agency, whose members include the County of Imperial, the County of Riverside, the Coachella Valley Water District, the Imperial Irrigation District, and the Torres Martinez Desert Cahuilla Indians, collectively the “Member Entities.”

A. Background

The Salton Sea is California’s largest lake and is a critical stop on the Pacific Flyway, benefiting many species of resident and migratory birds. The Salton Sea is receding, and its salinity has increased substantially as inflows to the Sea have declined, degrading the ecosystem and contributing to worsening air quality in the region.

The state is committed to restoring the Salton Sea, and the numerous demands on and interests in restoration of the Salton Sea present an opportunity for governmental agencies at the local and state levels to collaborate to enhance outcomes of that restoration. CNRA is leading the state’s restoration efforts through implementation of the SSMP and recognizes the benefit and necessity of coordination with the Authority’s member entities in the planning, construction, operation, and maintenance of SSMP projects.

Through this MOU, CNRA and the Authority desire to document their intent to work together to improve public health, economic opportunity, habitat, and overall quality of life for the communities around the Salton Sea through coordination and collaboration in the planning and implementation of the SSMP.

B. Purpose

The purpose of this MOU is to document the Parties’ good faith commitments to coordinate and consult in the restoration of the Salton Sea.

C. Authority

The Parties are entering this MOU pursuant to the Salton Sea Restoration Act, Fish & Game Code section 2930 *et seq.* Pursuant to Fish & Game Code sections 2942, subdivision (a)(1), and 2943, the Secretary for Natural Resources (“Secretary”) shall undertake Salton Sea restoration efforts in consultation and coordination with the Authority.

D. Specific Principles

The Parties intend to collaborate and cooperate in planning and implementation of the SSMP as follows:

1. CNRA Participation in the Authority's Board of Directors Meetings. The Parties recognize that the Authority's Board of Directors Meetings ("Board Meetings") provide a valuable forum for discussion of Salton Sea restoration. The Parties intend that the Secretary or the Secretary's representative may participate in Board Meetings on a regular basis as an ex officio, non-voting, member of the Authority, pursuant to the Joint Powers Agreement creating the Salton Sea Authority. To assist in coordinating the activities of CNRA with the Authority and its Member Entities, the Parties anticipate that the Secretary or the Secretary's representative will engage in discussion and respond to public questions and comment in the same manner as voting members of the Authority's Board of Directors.
2. Authority Coordination Assistance. CNRA recognizes that the Authority is uniquely positioned to assist in coordination of local priorities for Salton Sea restoration projects. The Parties intend the Authority to continue its leadership role in the development and consolidation of local priorities and to be the primary channel through which such local priorities are communicated to CNRA. The Parties intend the Executive Director of the Authority to communicate local Salton Sea restoration priorities and support requests to CNRA through the Secretary's representative.
3. Federal Funding Partnership Opportunities. The Parties intend to work together to seek out federal funding partnership opportunities for planning and implementation projects that will help restore the Salton Sea and fulfill the SSMP acreage targets. The Parties intend to partner to apply for such federal funding where appropriate.
4. SSMP Project Planning and Implementation. To accelerate restoration efforts, the Parties contemplate that CNRA may request that the Authority or its Member Entities lead or assist with certain planning and implementation efforts, such as implementation of certain fully-permitted SSMP projects. The Authority desires to assist CNRA with planning and implementation of the SSMP and intends that its Board of Directors consider in a timely manner such requests by CNRA.

E. Additional Provisions

1. Amendments. This MOU may be amended only by mutual written agreement of the Parties.
2. Term. This MOU will become effective upon execution by the Parties and will remain in full force and effect until terminated by either Party with 60-day written notice.

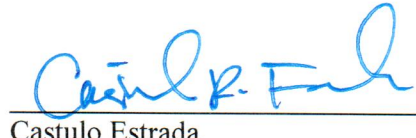
3. Relationship of Parties. Execution of this MOU does not create a new legal entity with a separate legal existence from the individual Parties. This MOU does not result in the joint exercise of powers as set forth in California Government Code section 6500 *et seq.*
4. Appropriations. The Parties recognize that all actions contemplated by this MOU are subject to legislative appropriation. Nothing herein shall constitute, or be deemed to constitute, an obligation of future appropriations by the Legislature of the State of California, where creating such an obligation would be inconsistent with Article XVI, sections 1 and 7, of the Constitution of the State of California. Nothing in this MOU is intended or shall be construed to authorize or require the obligation, appropriation, reprogramming, or expenditure of any funds by any Party. Any funding commitment or services, if pursued, will be handled in accordance with applicable laws, regulations, and procedures.
5. Nonbinding. This MOU is legally nonbinding and in no way: (i) impairs any Party from continuing its own planning or project implementation; (ii) limits a Party from exercising its authority in any matter; (iii) infers that a Party will act in any particular manner on a project; or (iv) gives any of the Parties any authority over matters within the jurisdiction of any other Party. Nothing in this MOU creates any legal rights, obligations, benefits, or trust responsibilities, substantive or procedural, enforceable at law or in equity, by a Party against any other Party, a Party's officers, or any person. Nothing in this MOU authorizes anyone not a Party to this MOU to maintain an action at law or in equity under the provisions of this MOU.
6. Counterparts. This MOU may be signed in two or more counterparts each of which, when executed and delivered, shall be an original and all of which together shall constitute one instrument, with the same force and effect as though all signatures appeared on a single document.

**CALIFORNIA NATURAL RESOURCES
AGENCY**



Arturo Delgado
Assistant Secretary for Salton Sea Policy

SALTON SEA AUTHORITY



Castulo Estrada
President



AB-71 Salton Sea restoration. (2013-2014)

SHARE THIS:



Assembly Bill No. 71

CHAPTER 402

An act to add Article 2 (commencing with Section 2940) to Chapter 13 of Division 3 of the Fish and Game Code, relating to the Salton Sea.

[Approved by Governor September 28, 2013. Filed with Secretary of State September 28, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

AB 71, V. Manuel Pérez. Salton Sea restoration.

Existing law, until January 1, 2013, established the Salton Sea Restoration Council as a state agency in the Natural Resources Agency to oversee the restoration of the Salton Sea.

This bill would require the Secretary of the Natural Resources Agency, in consultation and coordination with the Salton Sea Authority, to lead Salton Sea restoration efforts. This bill would authorize the authority to lead a restoration funding and feasibility study, in consultation with the agency, as prescribed. This bill would also require the secretary to seek input from the authority with regard to specified components of restoration of the Salton Sea. By imposing duties on a local joint powers authority, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Article 2 (commencing with Section 2940) is added to Chapter 13 of Division 3 of the Fish and Game Code, to read:

Article 2. Salton Sea Restoration

2940. The Legislature finds and declares all of the following:

(a) The Salton Sea is California's largest inland water body with beneficial uses that include fisheries and wildlife habitat and preservation of endangered species, and is a repository for agricultural drainage.

(b) The Salton Sea ecosystem is a critical link on the international Pacific Flyway and supports over 400 species of birds.

(c) The Salton Sea is threatened by increasing salinity and reduced inflows. These changes increasingly threaten the unparalleled wildlife resources at the sea, as well as air quality in the region.

(d) In cooperation with local governments, nonprofit organizations, private businesses, and the public, the Salton Sea Authority can help protect wildlife habitats and endangered species, improve water and air quality, and enhance recreational opportunities in the region.

(e) In restoring the Salton Sea, it is the intent of the Legislature to do all of the following:

(1) Permanently protect fish and wildlife that are dependent on the Salton Sea ecosystem.

(2) Restore the long-term stable aquatic and shoreline habitat for fish and wildlife that depend on the Salton Sea.

(3) Mitigate air quality impacts from restoration projects using the best available technology or best available control measures, as determined by the South Coast Air Quality Management District and the Imperial County Air Pollution Control District.

(4) Protect water quality.

(5) Maintain the Salton Sea as a vital link along the Pacific Flyway.

(6) Preserve local tribal heritage and cultural values associated with the Salton Sea.

(7) Minimize noxious odors and other water and air quality problems.

(8) Coordinate with local, state, and federal agencies that are responsible for air quality, endangered species, and other environmental mitigation implementation requirements of the Quantification Settlement Agreement.

(9) Enhance economic development opportunities that will provide sustainable financial improvements benefiting the local environment and the economic quality of life for communities around the Salton Sea.

2941. Unless the context requires otherwise, the definitions set forth in this section govern the construction of this article.

(a) "Agency" means the Natural Resources Agency.

(b) "Habitat mosaics" means two or more proximate habitat types, such as saltwater shoreline abutting riverine deltas and irrigated farmland.

(c) "Quantification Settlement Agreement" has the same meaning as defined in subdivision (a) of Section 1 of Chapter 617 of the Statutes of 2002.

(d) "Salton Sea Authority" or "authority" means the joint powers authority comprised of the County of Imperial, the County of Riverside, the Imperial Irrigation District, the Coachella Valley Water District, and the Torres Martinez Desert Cahuilla Indian Tribe.

(e) "Secretary" means the Secretary of the Natural Resources Agency.

(f) "Vector management" means services that eliminate or reduce the risk of illness caused by any organism transporting a pathogen.

2942. (a) (1) The secretary, in consultation and coordination with the authority, shall lead the Salton Sea restoration efforts that shall include all of the following:

(A) Early start habitat demonstration projects.

(B) Biological investigations relating to the restoration of the Salton Sea.

(C) Investigations of water quality, sedimentation, and inflows relating to the restoration of the Salton Sea.

(D) Air quality investigations, in consultation and coordination with local and regional air quality agencies, relating to the restoration of the Salton Sea.

(E) Geotechnical investigations relating to the restoration of the Salton Sea.

(F) Financial assistance grant programs to support restoration activities of local stakeholders.

(2) The secretary and the Legislature shall maintain full authority and responsibility for any state obligation under the Quantification Settlement Agreement. The secretary and the Legislature shall have final approval for any proposed restoration plan.

(3) (A) To the extent that funding is appropriated to the department for Salton Sea restoration activities, the Department of Water Resources, in coordination and under agreement with the department, may undertake restoration efforts identified in this subdivision.

(B) The department and the Department of Water Resources shall do all of the following for the Salton Sea Species Conservation Habitat Project:

(i) Immediately make available relevant information relating to the factors that influence the cost and size of the alternatives discussed in the environmental impact report or environmental impact statement for the species habitat conservation program.

(ii) Release all available detail on a final project design immediately, or upon final determination of a least environmentally damaging preferred alternative by the United States Army Corps of Engineers. Details of a final project design shall include location, configuration, size, and cost.

(iii) Immediately make available project evaluation protocols that include the following principles of adaptive management:

(I) Goals and objectives of the project.

(II) The project design and an operations plan.

(III) A monitoring plan that will include metrics that identify benefits to the species.

(IV) A performance evaluation based on species population identified through monitoring.

(V) A decisionmaking framework to evaluate project performance and guide operations and management changes.

(b) (1) The authority may lead a restoration funding and feasibility study, in consultation with the agency, to do the following:

(A) Investigate access and utility agreements that may contribute to the future funding of restoration activities at the Salton Sea.

(B) Analyze all feasible funding sources for restoration program components and activities.

(C) Analyze economic development opportunities, including, but not limited to, renewable energy, biofuels, mineral development, and algae production for the purposes of identifying new revenue sources for the Salton Sea restoration efforts.

(D) Identify state procurement and royalty sharing opportunities.

(E) Review existing long-term plans for restoration of the Salton Sea and recommend to the secretary changes to existing restoration plans. In any review pursuant to this subparagraph, the authority shall consider the impacts of the restoration plan on air quality, fish and wildlife habitat, water quality, and the technical and financial feasibility of the restoration plan and shall consider the impacts on other agencies responsible for air quality, endangered species, and other environmental mitigation requirements for implementation of the Quantification Settlement Agreement.

(2) No evaluation, study, review, or other activity pursuant to this article shall delay the planning and implementation of ongoing and planned mitigation projects, including, but not limited to, the Salton Sea Species Conservation Habitat Project or other mitigation measures pursuant to existing state and federal programs and agreements, including, but not limited to, those programs and agreements undertaken pursuant to the Quantification Settlement Agreement.

2943. For the purposes of considering local, publicly derived input concerning habitat objectives and actions, types and levels of public access, and integration of air quality management and habitat restoration, the secretary shall seek input from the authority with regard to the following components of restoration of the Salton Sea:

(a) Design opportunities and constraints, including the integration of the habitat, public access, and air quality management objectives.

(b) Public access and recreational components.

(c) Opportunities for economic development.

(d) Habitat mosaics and location.

(e) Vector management and predator control.

(f) Feasible financial resources to fund all recommended restoration program components.

2945. (a) Nothing in this article interferes with or prevents the exercise of authority by a public agency to carry out its programs, projects, or responsibilities.

(b) Nothing in this article affects requirements imposed under any other provision of law.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district are the result of a program for which legislative authority was requested by that local agency or school district, within the meaning of Section 17556 of the Government Code and Section 6 of Article XIII B of the California Constitution.

Memorandum

To: Salton Sea Authority Board of Directors
From: G. Patrick O'Dowd, Executive Director /GM
Date: March 21, 2024

Re: SSMP Annual Report Workshop

In recent years, the State Water Board has held its annual review of the Salton Sea Management Program locally in the Imperial and Coachella valleys. Due to fiscal constraints, this year's review will be held in Sacramento, only available to local residents via video streaming. In order to more localize this update and assessment, and to afford locals a deeper dive into the status and direction of the SSMP and related works (including the Community Needs Assessment and the Monitoring Implementation Plan, among others) we have proposed to the California Natural Resources Agency (CNRA) that two workshops, one in each of Riverside and Imperial counties, be held and hosted by the Salton Sea Authority working in collaboration and coordination with CNRA. We would be aided in that effort by an array of local and other stakeholders, including the Pacific Institute, Salton Sea Action Committee, the environmental justice community to ensure that the event is well publicized and properly executed.

To accomplish this, we have requested the use of funds made available by the state under the Outreach, Engagement, and Education contract which is set to expire in June. I have attached a more detailed email which outlines this request, along with a first draft of what that program might look like. We await the state's reply and are ready to move forward if authorized to do so.

From: [G. Patrick O'Dowd](#)
To: [Arthur, Samantha@CNRA](mailto:Arthur.Samantha@CNRA)
Cc: [Lisa Bravata](#)
Subject: SSMP Annual Report Workshop
Date: Tuesday, March 19, 2024 12:07:11 PM
Attachments: [proposed SSA 2024 workshops for SSMP annual report \(002\).docx](#)

Good afternoon, Samantha,

We understand that the Salton Sea Management Program will hold its annual meeting with the State Water Board on May 22nd in Sacramento. As you know, in the past these local gatherings of the State Water Board have proven beneficial in updating residents and partners on the status of your important work. This remote hearing risks losing some of that momentum.

We also understand that the SSMP may be planning local presentations of the annual report prior thereto. We support that decision, and would like to participate in the development and implementation of those gatherings. To that end, the Authority proposes hosting a "Community Workshops for the SSMP Annual Report", working together with CNRA and regional partners including the Pacific Institute, the Salton Sea Action Committee and others. The draft program outline attached, prepared principally by Michael Cohen, could be used as a first step in framing these events. We agree that it is important to implement this workshop prior to the state's annual Water Board presentation, tentatively planned for early May. We agree that two events, one in the Imperial Valley, one in the Coachella Valley, would be optimal. To that end, we have inquired as to the availability of venues including the Torres-Martinez Tameka Gym and the Calipatria High School or the Grace Smith Elementary School in Nyland, but a location has yet been determined or secured.

This effort should fall squarely within the scope of our outreach and engagement agreement, and working together it would be beneficial to utilize some of the remaining resources available thereunder to fund allowable expenses to ensure its success. Once a budget is developed, and if it is determined that certain expenses would not be allowed under the agreement, we would seek alternate funding sources.

This item will be discussed at Authority board on Thursday, and we welcome your feedback prior thereto.

GPO'D

G. Patrick O'Dowd
Executive Director/General Manager
Salton Sea Authority
(760) 238-7777
www.SaltonSea.com

Proposed SSA Community Workshops for SSMP Annual Report

Overview

1. SWRCB annual Salton Sea workshop to be held in Sacramento this year, limiting local public engagement.
2. SSMP is likely to schedule ~1.5-hour public workshop for late April in the region.
3. SSA could support and expand this workshop, with additional panels, improving engagement.
4. SSA could leverage existing state funding.

Objectives

1. Expand local community engagement.
2. Provide a platform for organized community response to SSMP annual report.
3. Improve communication between SSMP and research community.
4. Leverage SSA local leadership role to educate and inform community.

Context

Order 2017-0134 states that the SWRCB “will hold a public meeting to receive oral and written comments on the status of Salton Sea Restoration, including a report from state agencies,” each year. Due to state budgetary constraints, the SWRCB will not hold this meeting in the Salton Sea region this year, imposing significant financial hardship on local residents who might otherwise wish to attend the meeting in person. At the SWRCB meeting, comments are directed to the SWRCB (which lacks authority to direct or manage SSMP activities) rather than directly to the SSMP team. At the proposed Community Workshops for SSMP Annual Report, comments would be directed to the SSMP team itself.

Proposed Format

Simultaneous interpretation to be provided and workshops would be livestreamed.

1. Introductions by SSMP and SSA (10 minutes)
2. Comments by local elected officials (10 minutes)
3. SSMP in-depth overview of the 2024 SSMP Annual Report (45 minutes)
4. Public comments and questions (30 minutes)
5. Research panel (45 minutes)
 - a. Hydrology (Reclamation or CO R Bd of CA)

- b. Playa exposure & dust emissions (IID?)
- c. Public health (UCR Salton Sea Task Force?)
- 6. Community panel (45 minutes)
 - a. ECV resident
 - b. IV resident
 - c. AB 617 representative?
 - d. Other?
- 7. Public comments and questions (30 minutes)
- 8. Closing comments by SSMP & SSA (5 minutes)

Coachella workshop

At North Shore Yacht Club or at Torres-Martinez Tameka Gym? Weekday starting at 5:30 pm or on a Saturday. Some catering (drinks, snacks) provided. Week of April 22nd?

Imperial workshop

At Imperial Valley College or other site closer to the Sea? Weekday starting at 5:30 pm or on a Saturday. Some catering (drinks, snacks) provided. Week of April 22nd?

Budget

- 1. Interpreters
- 2. Venue rental?
- 3. Light catering
- 4. Outreach/media announcements

Memorandum

To: Salton Sea Authority Board of Directors
From: G. Patrick O'Dowd, Executive Director /GM
Date: March 21, 2024

Re: NLPDP Regional Outreach

The North Lake Pilot Demonstration Project (NLPDP) team is working on a detailed outreach and engagement plan for the project as it moves forward into design and future construction phases. In conjunction therewith, it was considered important that the effort not only presents the project for its vast benefits to the local community, but also highlights its relationship to the Salton Sea Management Plan, including its Proposition 68 funding. To accomplish this we are exploring a possible bifurcation of scope so that the work specific to the NLPDP would be funded through the Prop 68 funding, in part via the DUDEK contract (as outlined therein), and the broader effort to reflect that the project to highlight the project's relationship to the State's SSMP program, funded under the Authority's contract with the state for Outreach, Engagement, and Education. This would require advanced approval from the state, and may be problematic given the pending expiration of that contract (unless extended). We are working with Riverside County, Dudek, and CV Strategies (the public relations firm that was part of the original DUDEK RFP) to develop a budget for this effort, segregating costs as discussed, for consideration by CNRA.

Memorandum

To: Salton Sea Authority Board of Directors
From: G. Patrick O'Dowd, Executive Director /GM
Date: March 21, 2024

Re: 2024/2025 Operating Budget

Attached you will find the Salton Sea Authority preliminary Operating Budget for the coming fiscal year. A few highlights:

Revenues:

Member Contributions remain unchanged, and revenues from other sources are budgeted in line with historical performance.

No revenue is budgeted for CNRA Outreach, Engagement, and Education contract, as it has not yet been extended.

Grant Revenues reflect reimbursement (largely passthrough) for work anticipated to be completed and billed in the current year.

Expenses:

Salaries are budgeted based on current levels and are consistent with Riverside County payroll policy with respect to increases. Job Classifications are included for the two Salton Sea Authority full time staff, showing responsibilities and salary ranges. The Job Classification for the Public Relations Director – included last year but not included in this year's budget – is included for informational purposes only.

Benefits are based off historical experience and budgeted salary levels.

Contract and Professional services are based off current contract rates. Additional provisions were made in "Other Contract Services" for adjustments that are anticipated to occur in the current fiscal year.

Travel and Mileage increased due to additional activity relating to the implementation of the feasibility study, the projects in the ground, and other business-related travel expenses.

Office Rent and Utilities totaling \$24,000 reflect new rental space (addressed in a separate agenda item) which has not historically been budgeted.

Except for administrative burden, Grant Expenses are generally a pass through, reflecting actual project costs billed and paid. Generally the Authority does not reimburse project expenses until funded by Grantor.

All other expenses are in line with historical norms.

Staff Recommendation: Tentatively approve budget as presented and refer to member agencies for consideration and authorization of final approval on April 18, 2024

Salton Sea Authority
Proposed Budget
FY 2024/25

	A	B	C	D	E	F
	FY 23/24 Adopted Budget General Fund	FY 23/24 Projected YTD General Fund	FY 24/25 Proposed Budget General Fund	FY 23/24 Adopted Budget Grant Funds	FY 23/24 Projected YTD Grant Funds	FY 24/25 Proposed Budget Grant Funds
1 REVENUE						
2 Local Government/Member Assessments	\$ 800,000	\$ 800,000	\$ 800,000	\$ -	\$ -	\$ -
3 Tribal Contribution (Voluntary)	-	10,000	-			
4 Other Federal/State/Local Reimbursements	25,000	-	10,000			
5 Sponsorships	25,000	-	10,000			
6 Grants and Other Reimbursements to General Fund	194,400	12,400	30,000			
7 Department of Water Resources-North Lake Demonstration				2,000,000	218,400	2,000,000
8 Bureau of Reclamation-Desert Shores Revitalization				750,000	12,000	750,000
9 California Natural Resources Agency-Community Outreach				215,000	-	-
10 TOTAL REVENUE	1,044,400	822,400	850,000	2,965,000	230,400	2,750,000
11 EXPENSES						
12 SSA ADMINISTRATION						
13 Employee Salaries and Benefits						
14 Total Employee Salaries	309,300	224,916	225,900			
15 Total Employee Benefits	171,600	116,192	127,000			
16 Total Salaries and Benefits	480,900	341,107	352,900			
17 Contract and Professional Services						
18 DC Advocates	94,200	89,600	89,600			
19 Sacramento Advocate	88,200	84,000	84,000			
20 Attorney Fees	54,000	34,000	59,400			
21 Audit & Accounting	76,200	57,000	62,000			
22 Other Contract Services	-	-	17,400			
23 Total Contract and Professional Services	312,600	264,600	312,400			
24 Travel /Mileage	40,000	35,000	50,000			
25 Equipment / IT Maintenance	8,300	4,600	5,100			
26 Non-capitalized Office Equipment	8,000	4,000	8,000			
27 Insurance	11,600	11,700	13,000			
28 Office Expenses / Operating Supplies	8,700	2,300	8,700			
29 Office Expenses /Online Services	4,000	4,900	5,400			
30 Operating Expenses / County Charges	7,400	6,600	5,400			
31 Board Room Usage and Recordings	2,400	3,600	3,600			
32 Dues & Subscriptions	10,000	8,600	10,000			
33 Interest Expense	-	1,300	1,500			
34 Rent	-	-	18,000			
35 Utilities	-	-	6,000			
36 TOTAL SSA ADMINISTRATION	893,900	688,307	800,000			
37 GRANT EXPENSES						
38 Department of Water Resources-North Lake Demonstration				1,920,300	207,600	1,976,000
39 Bureau of Reclamation-Desert Shores Revitalization				725,000	10,600	744,000
40 California Natural Resources Agency-Community Outreach				125,300	-	-
41 Reimbursement to General Fund				194,400	12,200	30,000
42 TOTAL GRANT EXPENSES				2,965,000	230,400	2,750,000
43 TOTAL EXPENSES	893,900	688,307	800,000	2,965,000	230,400	2,750,000
44 NET REVENUE / (EXPENSES)	\$ 150,500	\$ 134,093	\$ 50,000	\$ -	\$ -	\$ -



County of Riverside
DEPUTY DIRECTOR OF NATURAL RESOURCES

CLASS CODE 74196

SALARY

\$50.43 - \$80.05 Hourly
\$8,740.97 - \$13,876.14 Monthly
\$104,891.70 - \$166,513.68 Annually

Class Concept

Under general administrative direction, assists in planning, organizing, and administering the activities of a major technical division within the Transportation Land Management Agency (TLMA); participates in the creation and implementation of overall Agency policy; and performs other related duties as required.

The Deputy Director of Natural Resources is a single-position classification and reports directly to the Assistant County Executive Officer-TLMA. Incumbents are characterized by the responsibility for managing through subordinate supervisors, employees involved in carrying out the work and programs of a major, technical departmental division.

This class has been designated At-Will by the Board of Supervisors, in accordance with the provisions provided under Article 6, Section 601E (8) of the County Management Resolution and serves at the pleasure of the Department Head.

This class has been deemed eligible for the Performance Recognition Plan as set forth under Article 3, Section 311(C) of the County Management Resolution. Program eligibility requires employees to be in a leadership position, manage other employees or programs, and have significant influence on the achievement of organizational objectives.

Examples of Essential Duties (may include but not limited to)

- Plan, organize, and direct the activities of a major division of TLMA through subordinate supervisors.
- Supervise employees involved in the planning, development, monitoring, and evaluation of various departmental projects and programs.
- Assist in developing departmental working rules and personnel policies and procedures.
- Direct division budget preparation; manage budgetary expenditures; assist in developing fiscal guidelines in accordance with applicable County, state, and federal rules, regulations, and procedures; supervise the financial management of the assigned division.
- Supervise the review and evaluation of proposals submitted for funding.
- Develop and maintain contact with a variety of public and private sector officials, private businesses, agencies, organizations, and other County departments; promote citizen participation and community organization

involvement in the planning, development, implementation, and evaluation of division/ agency programs.

- Propose and promote legislation designed to stimulate economic, workforce, industrial, and community development; research and interpret federal, state, and local legislation and regulations; monitor staff, external consultants, and project sponsors for performance and compliance with applicable federal laws and regulations.
- Make program and policy recommendations to the Executive Team, Board of Supervisors and federal and state officials and agencies.
- Prepare grant applications, budgets, and performance reviews of the more difficult and complex federal and state agency grant-funded projects; direct leveraging of departmental grant funds with federal, state, private, and other sources.
- Represent the County with various economic organizations and other government agencies and formulate strategic partnerships.
- Assist in the selection and evaluation of staff; train employees.
- In the absence of executive management, may approve the release of information regarding the assigned division to the news media and the community.
- Prepare and review a variety of reports and correspondence.

Recruiting Guidelines

OPTION I

Education: Graduation from an accredited college or university with a bachelor's degree in business or public administration, behavioral science, social science, political science, public policy, urban studies, education, marketing, economics, environmental sciences, geography, or a related field to the assignment.

Experience: Four years of experience equivalent to the duties of a County of Riverside Principal Development Specialist supervising, assigning, reviewing and participating in the work of subordinates in a defined work group, or planning, organizing and directing employment, training, economic development, housing, community development or project management; determining financial impact, monitoring project budgets; making recommendations regarding projects to be funded, presenting justification to administration; maintaining working relationships with federal, state, and local agencies, governmental departments, community groups and private-sector businesses and developers; maintaining program linkages with training institutions, employers, and community service agencies; compiling and comparing project statistical data with established program goals; negotiating, administering, and monitoring contracts and agreements; and work which may have included assignment to supervise professional staff with regards to specific projects, or employment and training activities, by prescribing procedures and methods, scheduling and assigning tasks, monitoring progress, reviewing results, and being responsible for completion of tasks and the evaluation of work performance; providing technical advice to businesses, developers, employers, governmental agency departments and staff. (A master's degree from an accredited college or university in public or business administration, social science, political science, public policy, urban studies, marketing, economics, environmental sciences, geography, or a related field to the assignment may substitute for one year of the required experience.)

OPTION II

Education: Graduation from an accredited college or university with a bachelor's degree in business or public administration, behavioral science, social science, political science, public policy, urban studies, education, marketing, economics, environmental sciences, geography, or a related field to the assignment.

Experience: Four years of public agency experience in a management or administrative capacity in an executive manager's office, or in a senior supervisory staff position, assistant department head, agency deputy or director position, which included responsibility for a major program or division and which included responsibility for directing the activities of subordinate supervisors or for managing policy, planning, program budgeting, staffing and coordination with other similar management programs. (A master's degree from an accredited college or university in public or business administration, social science, political science, public policy, urban studies, marketing, economics, environmental sciences, geography, or a related field to the assignment may substitute for one year of the required experience.)

ALL OPTIONS

Knowledge of: The principles and practices of economic and community development and business management; principles and procedures involved in establishing and maintaining fiscal and program monitoring systems; methods of and the procedures and requirements involved in applying for and administering public financing programs; methods of financing commercial real estate, buildings, and equipment; procedures used in the procurement and sale of commercial real estate; local policies and procedures for environmental review; methods, techniques, and resources used in economic and industrial research, analysis, and planning; factors affecting population, business, and industrial growth, including governmental controls; principles and practices of budgeting and managing funds; principles, methods, and techniques of supervision and personnel administration.

Ability to: Plan, organize, and direct the work of staff; investigate problems, analyze administrative policies and procedures, and institute solutions; interpret and apply laws, regulations, and policies; develop and implement innovative economic development programs and projects; maintain cooperative relationships with a variety of citizens public and private, organizations and businesses, commissions/committees, and County staff; be effective in conflict situations requiring instructing, persuading, and motivating people; coordinate project activities with management, elected officials, Board members, employees and the public; evaluate program effectiveness; secure the willing cooperation of operating department officials and personnel in accepting and effecting sound management practices; analyze problems, generate and evaluate alternatives, reach practical conclusions, and devise workable solutions; interpret and apply legislative and administrative mandates and regulations; prepare recommendations and reports; communicate effectively in oral and written form to individuals and groups of various organizational and socio-economic levels.

Other Requirements

Possession of a valid California Driver's License may be required.

Pre-Employment

All employment offers are contingent upon successful completion of both a pre-employment physical exam, including a drug/alcohol test, and a criminal background investigation, which involves fingerprinting. (A felony or misdemeanor conviction may disqualify the applicant from County employment.)

Probationary Period

As an Approved Local Merit System, all County of Riverside employees, except those serving "At Will," are subject to the probationary period provisions as specified in the applicable Memorandum of Understanding, County

Resolution, or Salary Ordinance. Temporary and Per Diem employees serve at the pleasure of the agency/department head.



County of Riverside EXECUTIVE ASSISTANT I - CN

CLASS CODE 14013

SALARY

\$19.97 - \$29.72 Hourly

\$3,462.08 - \$5,151.48 Monthly

\$41,545.00 - \$61,817.75 Annually

Class Concept

Under general supervision, performs a wide variety of secretarial, administrative, and clerical duties in support of a management level position; serves as recording secretary to a small board, commission, committee, or similar entity; performs other related duties as required.

The Executive Assistant I is the first level classification in the Executive Assistant series and reports to an appropriate supervisory or management level position. This class is characterized by the primary responsibility to perform a variety of secretarial and complex clerical duties for a Program Manager, Section Chief and/or functioning as a recording secretary to a small board, commission, committee, or similar hearing body.

The Executive Assistant I is distinguished of the Executive Assistant II, in that the latter provides secretarial support to an Assistant Director, Deputy Director, or Division Chief, or serves as a recording secretary to a large/complex board, commission, committee or similar hearing body.

The Executive Assistant I is not a natural progression underfill for the class of Executive Assistant II. Advancement to the next level is obtained by competitive selection through an open recruitment.

Employees in a Confidential designated classification are defined by Section 3.b. of the Employee Relations Resolution, as "any employee who may be privy to the decision-making process of County management affecting employee relations" and are only authorized for use within the departments of Executive Office, Clerk of the Board, County Counsel, and Human Resources.

Examples of Essential Duties (may include but not limited to)

- Take and prepare minutes of meetings.
- Type correspondence, memoranda, reports, documents, orders, payrolls, briefs and statistical data such as charts, tables, and graphs.
- Set up and maintain office files, record and index using computer applications that include use of electronic mail, word processing, spreadsheet and special databases.
- Maintain control files to monitor status and expedite the completion of staff assignments.
- Schedule appointments, coordinate time, place, and participant arrangements for meetings.
- Sort, screen, and route incoming mail.
- Provide general information to office and telephone callers and/or refer them to appropriate party.
- Compile and summarize information, data, and figures for reports.
- May lead subordinate staff in routine clerical assignments.
- May serve as secretary to an assigned Commission; arrange meetings and schedule appointments; answer correspondence independently; prepare weekly meeting agenda; assemble data, reports, and material prepared by Department staff for Commissioners and Commission meetings as required.

Recruiting Guidelines

Education: Graduation from high school or attainment of a satisfactory score on a G.E.D. test may be required.

Experience: Three years of broad and varied clerical experience. (Completion of 18 semester or 27 quarter units from an accredited college or university or 360 hours of training from an accredited occupational training program in secretarial sciences, office practices, business education, or a closely related field to the assignment may substitute for one year of nonspecialized clerical experience.)

Knowledge of: A wide variety of typing layouts and formats; Business English, including spelling, punctuation, grammar, capitalization, and word usage; indexing and filing rules and systems; the operation and uses of office equipment including personal computers, calculators and copiers; modern office and record keeping procedures and practices; basic arithmetic; County customer service objectives and strategies; telephone, office, and online etiquette; current technology and trends in the profession.

Ability to: Operate standard and modern office equipment; proofread and review work for accuracy and completeness; input and retrieve data from computerized record keeping systems; prioritize and route telephone calls and mail; monitor staff assignment deadlines; establish effective working relationships with management, employees, and employee representatives.

Other Requirements

Possession of a valid California Driver's License may be required.

Pre-Employment

All employment offers are contingent upon successful completion of both a pre-employment physical exam, including a drug/alcohol test, and a criminal background investigation, which involves fingerprinting. (A felony or misdemeanor conviction may disqualify the applicant from County employment.)

Probationary Period

As an Approved Local Merit System, all County of Riverside employees, except those serving "At Will," are subject to the probationary period provisions as specified in the applicable Memorandum of Understanding, County Resolution, or Salary Ordinance. Temporary and Per Diem employees serve at the pleasure of the agency/department head.



County of Riverside

SENIOR PUBLIC INFORMATION SPECIALIST - CE

CLASS CODE 74459

SALARY

\$35.93 - \$50.51 Hourly

\$6,228.09 - \$8,755.88 Monthly

\$74,737.10 - \$105,070.52 Annually

Class Concept

Under direction, to plan, prepare and implement the public information program of a County agency or large County department; to inform the public of activities and services of the assigned agency or department; to develop, prepare, and implement specialized and comprehensive public information and education programs mandated by the government or emanating from the organization's goals; and to do other work as required.

Positions in this class are identified as the advanced journey level and are characterized by performing the more complex public information functions, such as spokesperson for the agency/department. The incumbent will typically report to senior management and is responsible for project planning, coordination, and implementation. Certain positions in this class may work more closely with multiple county agencies/departments and outside agencies, and may also augment ongoing public information activities.

The Senior Public Information Specialist - CE class is distinguished from the Public Information Officer by the latter's overall responsibility for the development and implementation of Riverside County's Public Information Program and for advising, planning, and directing programs for the Board of Supervisors, County officials, and department heads.

Examples of Essential Duties (may include but not limited to)

- Establishes and maintains regular contacts with the media, community groups, and government/private representatives to meet the organization's public information, awareness, and education needs.
- Develops and determines effectiveness of distribution and outreach media plan; makes recommendations for modifications as required.
- Writes feature articles and media releases on organization's activities, services, programs, and functions; prepares pamphlets and brochures.
- Coordinates release distribution to the media; organizes and arranges public information campaigns and press conferences.
- Plans, coordinates, and implements specialized public information and education programs pursuant to informing the public of the organization programs and services.
- Locates and utilizes existing resources available for special public information programs; writes Requests for

Proposals to secure funding for specialized public information and education programs.

- Assists in preparing the program's budget; monitors program expenditures; initiates and answers correspondence related to public inquiries and citizens' problems and complaints.
- Performs public speaking activities; writes scripts and uses various forms of presentations; coordinates activities with audio visual specialists, graphic artists, or other related staff.
- Provides writing support to the organization; coordinates and edits the organization's newsletter; may monitor the work of consultants; supervises volunteer staff.

Recruiting Guidelines

Education: Graduation from an accredited college with a Bachelor's degree in Journalism, Communications, English, Public Relations, Public/Business Administration, or a closely related field. (Additional qualifying experience may be substituted for the education on the basis of one year of full-time experience equaling 30 semester or 45 quarter units of education.)

Experience: Three years of full-time experience in developing and writing printed materials and/or media releases for use in print and electronic media; or in public or community relations which included the dissemination of information to internal and/or external audiences through various communications media.

Knowledge of: Methods of planning, coordinating, and implementing an effective public information program; methods and techniques used in planning press conferences; techniques in developing and producing audio-visual presentations; styles and techniques in speech writing.

Ability to: Complete assignments within strict time constraints; evaluate and apply government regulations to program planning; maintain confidentiality of sensitive information; establish and maintain effective working relations with staff, public, and representatives from outside agencies; coordinate public information and education programs with other jurisdictions; coordinate the activities of audio-visual specialists, graphic artists, or other specialists in preparing public information medium; recognize problems and develop effective solutions; act independently in converting complex technical information into a meaningful and applicable format for the targeted audience.

Other Requirements

License Required: Possession of a valid California class "C" driver's license may be required for field travel.

Pre-Employment

All employment offers are contingent upon successful completion of both a pre-employment physical exam, including a drug/alcohol test, and a criminal background investigation, which involves fingerprinting. (A felony or misdemeanor conviction may disqualify the applicant from County employment.)

Probationary Period

As an Approved Local Merit System, all County of Riverside employees, except those serving "At Will," are subject to the probationary period provisions as specified in the applicable Memorandum of Understanding, County Resolution, or Salary Ordinance. Temporary and Per Diem employees serve at the pleasure of the agency/department head.

ASSEMBLY BILL

No. 2610

Introduced by Assembly Member Garcia

February 14, 2024

An act to amend Section 2081.7 of the Fish and Game Code, relating to fish and wildlife.

LEGISLATIVE COUNSEL'S DIGEST

AB 2610, as introduced, Garcia. Protected species: authorized take: Salton Sea Management Program: System Conservation Implementation Agreement.

The California Endangered Species Act generally prohibits the take of a species determined to be an endangered, threatened, or candidate species under the act. Existing law authorizes the Department of Fish and Wildlife, if certain conditions are fulfilled, to authorize the take of species, including fully protected species, resulting from impacts attributable to implementation of the Quantification Settlement Agreement on specified lands and bodies of water, including the Salton Sea.

This bill would additionally authorize the department, if certain conditions are fulfilled, to authorize the take of species resulting from impacts attributable to the implementation of the Salton Sea Management Program or implementation of any System Conservation Implementation Agreement between the United States Bureau of Reclamation and the Imperial Irrigation District to implement the Lower Colorado River Basin System Conservation and Efficiency Program, as provided, on the specified lands and bodies of water .

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2081.7 of the Fish and Game Code is
2 amended to read:

3 2081.7. (a) Notwithstanding Sections 3511, 4700, 5050, and
4 5515, and contingent upon the fulfillment of the conditions listed
5 in subdivisions (b), (c), and (d), the department may authorize,
6 under Chapter 1.5 (commencing with Section 2050) or Chapter
7 10 (commencing with Section 2800), the take of species resulting
8 from impacts attributable to the implementation of the
9 Quantification Settlement Agreement, as defined in subdivision
10 (a) of Section 1 of Chapter 617 of the Statutes of 2002,
11 *implementation of the Salton Sea Management Program, or any*
12 *System Conservation Implementation Agreement between the*
13 *United States Bureau of Reclamation and the Imperial Irrigation*
14 *District to implement the Lower Colorado River Basin System*
15 *Conservation and Efficiency Program for the years 2024 to 2026,*
16 *inclusive, on all of the following:*

17 (1) The salinity, elevation, shoreline habitat, or water quality
18 of the Salton Sea.

19 (2) The quantity and quality of water flowing in the All
20 American Canal, the Coachella Canal, the Imperial Valley and
21 Coachella Valley drains, the New and Alamo Rivers, the Coachella
22 Valley Stormwater Channel, and the habitat sustained by those
23 flows.

24 (3) Agricultural lands in the Imperial Valley.

25 (4) The quantity and quality of water flowing in the Colorado
26 River, the habitat sustained by those flows, and the collection of
27 that water for delivery to authorized users.

28 (b) The Quantification Settlement Agreement is executed by
29 the appropriate parties on or before October 12, 2003.

30 (c) The department has determined that the appropriate
31 agreements have been executed to address environmental impacts
32 at the Salton Sea that include enforceable commitments requiring
33 all of the following:

34 (1) Imperial Irrigation District to transfer 800,000 acre-feet of
35 conserved water, by conservation methods selected by the Imperial
36 Irrigation District, to the Department of Water Resources on a
37 mutually agreed-upon schedule in exchange for payment of one

1 hundred seventy-five dollars (\$175) per acre-foot. The price shall
2 be adjusted for inflation on an annual basis.

3 (2) Imperial Irrigation District to transfer up to 800,000
4 additional acre-feet of conserved water, by conservation methods
5 selected by the Imperial Irrigation District, to the Department of
6 Water Resources during the first 15 years of the Quantification
7 Settlement Agreement on the schedule established for the
8 mitigation water that was previously to be transferred to the San
9 Diego Water Authority, or on a mutually agreed-upon schedule,
10 at no cost for the water in addition to the payment for the water
11 from the mitigation fund described in paragraph (1) of subdivision
12 (b) of Section 3 of Chapter 613 of the Statutes of 2003.

13 (3) As a condition to acquisition of the water described in
14 paragraph (1), the Department of Water Resources shall be
15 responsible for any environmental impacts, including Salton Sea
16 salinity, related to use or transfer of that water. As a condition to
17 acquisition of the water described in paragraph (2), the Department
18 of Water Resources shall be responsible for environmental impacts
19 related to Salton Sea salinity that are related to the use or transfer
20 of that water.

21 (4) The Metropolitan Water District of Southern California
22 (MWD) to purchase up to 1.6 million acre-feet of the water
23 provided in accordance with paragraphs (1) and (2) from the
24 Department of Water Resources at a price of not less than two
25 hundred fifty dollars (\$250) per acre-foot on a mutually
26 agreed-upon schedule. The price shall be adjusted for inflation on
27 an annual basis. The Department of Water Resources shall deposit
28 all proceeds from the sale of water pursuant to this paragraph, after
29 deducting costs and reasonable administrative expenses, into the
30 Salton Sea Restoration Fund established in Section 2932.

31 (5) The Metropolitan Water District of Southern California to
32 pay not less than twenty dollars (\$20) per acre-foot for all special
33 surplus water received by MWD as a result of reinstatement of
34 access to that water under the Interim Surplus Guidelines by the
35 United States Department of Interior subtracting any water
36 delivered to Arizona as a result of a shortage. The money shall be
37 paid into the Salton Sea Restoration Fund. The price shall be
38 adjusted for inflation on an annual basis. Metropolitan Water
39 District of Southern California shall receive a credit against future
40 mitigation obligations under the Lower Colorado River

1 Multi-Species Conservation Plan for any funds provided under
2 this paragraph to the extent that those funds are spent on projects
3 that contribute to the conservation or mitigation for species
4 identified in the Lower Colorado River Multi-Species Conservation
5 Plan and that are consistent with the preferred alternative for Salton
6 Sea restoration.

7 (6) Coachella Valley Water District, Imperial Irrigation District,
8 and San Diego County Water Authority to pay a total of thirty
9 million dollars (\$30,000,000) to the Salton Sea Restoration Fund
10 as provided in paragraph (2) of subdivision (b) of Section 3 of
11 Chapter 613 of the Statutes of 2003.

12 (d) All of the following conditions are met:

13 (1) The requirements of subdivision (b) and (c) of Section 2081
14 are satisfied as to the species for which take is authorized.

15 (2) The take authorization provides for the development and
16 implementation, in cooperation with federal and state agencies, of
17 an adaptive management process for monitoring the effectiveness
18 of, and adjusting as necessary, the measures to minimize and fully
19 mitigate the impacts of the authorized take. The adjusted measures
20 are subject to Section 2052.1.

21 (3) The take authorization *for implementation of the*
22 *Quantification Settlement Agreement* provides for the development
23 and implementation in cooperation with state and federal agencies
24 of an adaptive management process that substantially contributes
25 to the long-term conservation of the species for which take is
26 authorized. Preparation of the adaptive management program and
27 implementation of the program is the responsibility of the
28 department. The department's obligation to prepare and implement
29 the adaptive management program is conditioned upon the
30 availability of funds pursuant to the Water Security, Clean Drinking
31 Water, Coastal and Beach Protection Act of 2002, if it is approved
32 by the voters at the statewide general election to be held November
33 5, 2002 (Proposition 50), or other funds that may be appropriated
34 by the Legislature or approved by the voters for that purpose. The
35 failure to appropriate funds does not relieve the applicant of the
36 obligations of paragraphs (1) and (2). However, the applicant shall
37 not be required to fund any program pursuant to this paragraph.

38 (4) The requirements of paragraph (1) may be satisfied if the
39 take is authorized under Chapter 10 (commencing with Section
40 2800).

1 (e) (1) The Secretary of the Resources Agency, in consultation
2 with the department, the Department of Water Resources, the
3 Salton Sea Authority, appropriate air quality districts, and the
4 Salton Sea Advisory Committee, shall undertake a restoration
5 study to determine a preferred alternative for the restoration of the
6 Salton Sea ecosystem and the protection of wildlife dependent on
7 that ecosystem. The Secretary of the Resources Agency shall
8 extend an invitation to the United States Geological Survey Salton
9 Sea Science Office to also participate in the restoration study, and
10 the office may participate if it accepts the invitation. The restoration
11 study shall be conducted pursuant to a process with deadlines for
12 release of the report and programmatic environmental documents
13 established by the secretary, in consultation with the department,
14 the Department of Water Resources, the Salton Sea Authority, and
15 the Salton Sea Advisory Committee, and the United States
16 Geological Survey Salton Sea Science Office, if it is a participant.
17 The secretary shall use all available authority to enter into a
18 memorandum of understanding (MOU) with the Secretary of the
19 Interior, as provided in Section ~~101(b)(1)(B)(i)~~ *101(b)(1)(C)(i)* of
20 the Salton Sea Reclamation Act of 1998 (P.L. 105-372) for the
21 purpose of obtaining federal participation in the restoration of the
22 Salton Sea.

23 (2) The restoration study shall establish all of the following:

24 (A) An evaluation of alternatives for the restoration of the Salton
25 Sea that includes consideration of strategies for salinity control,
26 habitation creation and restoration, and different shoreline
27 elevations and surface area configurations. The alternatives shall
28 consider the range of possible inflow conditions. The evaluation
29 established pursuant to this subparagraph shall also include
30 suggested criteria for selecting and evaluating alternatives
31 consistent with Chapter 13 (commencing with Section 2930),
32 including, but not limited to, at least one most cost-effective,
33 technically feasible, alternative.

34 (B) An evaluation of the magnitude and practicability of costs
35 of construction, operation, and maintenance of each alternative
36 evaluated.

37 (C) A recommended plan for the use or transfer of water
38 provided by paragraph (2) of subdivision (c). No water may be
39 transferred pursuant to that subdivision unless the secretary finds

1 that transfer is consistent with the preferred alternative for Salton
2 Sea restoration.

3 (D) The selection of a preferred alternative consistent with
4 Section 2931, including a proposed funding plan to implement the
5 preferred alternative. The proposed funding plan shall include a
6 determination of the moneys that are, or may be, available to
7 construct and operate the preferred project, including, but not
8 limited to, all of the following moneys:

9 (i) Moneys in the Salton Sea Restoration Fund established by
10 Section 2932.

11 (ii) State water and environmental bond moneys.

12 (iii) Federal authorizations and appropriations.

13 (iv) Moneys available through a Salton Sea Infrastructure
14 Financing District established pursuant to Section 53395.9 of the
15 Government Code and local assessments by the Salton Sea
16 Authority or its member agencies.

17 (v) Moneys derived from user or other fees.

18 (3) The study identifying the preferred alternative shall be
19 submitted to the Legislature on or before December 31, 2006.

20 (4) The Secretary of the *Natural* Resources Agency shall
21 establish an advisory committee for purposes of this subdivision
22 as follows:

23 (A) The advisory committee shall be selected to provide
24 balanced representation of the following interests:

25 (i) Agriculture.

26 (ii) Local governments.

27 (iii) Conservation groups.

28 (iv) Tribal governments.

29 (v) Recreational users.

30 (vi) Water agencies.

31 (vii) Air pollution control districts.

32 (viii) Geothermal energy development.

33 (B) Appropriate federal agency representatives may be asked
34 to serve in an ex officio capacity.

35 (C) The *Natural* Resources Agency shall consult with the
36 advisory committee throughout all stages of the alternative
37 selection process.

38 (D) The advisory committee shall meet no fewer than six times
39 annually.

1 (E) The secretary shall appoint a vice chair of the advisory
 2 committee from the committee membership. The vice chair shall
 3 work with the secretary to develop advisory committee agendas
 4 and to schedule meetings of the committee. The secretary and vice
 5 chair shall appoint an agenda subcommittee to assist in the
 6 preparation of advisory committee agendas.

7 (F) The advisory committee shall submit to the *Natural*
 8 Resources Agency recommendations to assist the agency in
 9 preparation of its restoration plan. The *Natural* Resources Agency
 10 shall develop a schedule for the completion of these
 11 recommendations to ensure that these recommendations will be
 12 considered by the agency in a timely and meaningful manner as
 13 the restoration plan is developed. These recommendations may
 14 include, but are not limited to:

15 (i) The specific goals and objectives of the restoration plan.

16 (ii) The range of alternative restoration actions that ~~must~~ *are*
 17 *required* to be developed and analyzed.

18 (iii) The no action alternative.

19 (iv) The criteria for determining economic and technical
 20 feasibility of the alternatives.

21 (v) The range of options for funding the restoration plan.

22 (vi) The selection of a preferred alternative for a restoration
 23 plan.

24 (G) The *Natural* Resources Agency shall periodically provide
 25 an update to the advisory committee of the current work plan and
 26 schedule for the development of the restoration plan.

27 (f) This section shall not be construed to exempt from any other
 28 provision of law the Quantification Settlement ~~Agreement and~~
 29 *Agreement*, the Agreement for Transfer of Conserved Water by
 30 and between the Imperial Irrigation District and the San Diego
 31 County Water Authority, dated April 29, ~~1998~~. *1998*,
 32 *implementation of the Salton Sea Management Program, or any*
 33 *System Conservation Implementation Agreement between the*
 34 *United States Bureau of Reclamation and the Imperial Irrigation*
 35 *District to implement the Lower Colorado River Basin System*
 36 *Conservation and Efficiency Program for the years 2024 to 2026,*
 37 *inclusive.*

O



Assemblymember Eduardo Garcia, 36th Assembly District

AB 2610 – Extended Environmental Coverage

Updated 2/23/23

BACKGROUND

The U.S. Bureau of Reclamation (Reclamation) launched the Lower Colorado River Basin System Conservation and Efficiency Program (LC Conservation Program) in 2023 as part of the Department of Interior’s commitment to address the drought crisis within the Colorado River Basin. The water conservation efforts implemented under the LC Conservation Program are funded by the federal Inflation Reduction Act. The Imperial Irrigation District (IID) is negotiating a SCIA with Reclamation under the LC Conservation Program to conserve a cumulative target of 800,000 acre-feet of Colorado River water during 2024-2026. This conserved water would be generated entirely by agricultural water users voluntarily participating in conservation programs administered by IID. Reclamation is also soliciting water conservation from long-term durable system efficiency improvement projects. IID submitted a proposal for a SCIA for such projects and is awaiting selection. Any water conserved by IID pursuant to a SCIA would be in addition to the existing conservation created by IID for the water transfers under the Quantification Settlement Agreement.

Furthermore, the SCIA currently being negotiated triggers the release of \$175 million in federal funding earmarked for SSMP environmental projects.

ISSUE

California Fish and Game Code Section 2081.7 authorizes the take of species, with certain requirements, resulting from impacts attributable to the implementation of the Quantification Settlement Agreement of 2003. AB 2610 extends that existing limited authority of DFW to authorize the take of species resulting from impacts attributable to the implementation of the SSMP, spearheaded by the Natural Resources Agency, and SCIA during 2024 through 2026 between IID and the U.S. Bureau of Reclamation.

The narrowly focused amendments proposed in AB 2610 are necessary in order for IID to enter into any SCIAs during 2024-2026 to implement water conservation programs and projects for the creation of at least the targeted 800,000 acre-feet of conserved water.

BILL SUMMARY

AB 2610 extends existing limited authority of the Department of Fish and Wildlife (DFW) to authorize the take of species resulting from impacts attributable to the implementation of the Salton Sea Management Program (SSMP) and System Conservation Implementation Agreements (SCIA) during 2024 through 2026.

SUPPORT

Imperial Irrigation District

For More Information:

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Introduced by Senator Padilla
(Principal coauthor: Assembly Member Garcia)

January 24, 2024

An act to add Article 8.1 (commencing with Section 92688) to Chapter 6 of Part 57 of Division 9 of Title 3 of the Education Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 967, as introduced, Padilla. University of California: pilot project: dust forecast and warning system: Imperial County and Coachella Valley.

Existing law generally designates the State Air Resources Board as the state agency with the primary responsibility for the control of vehicular air pollution, and air pollution control districts and air quality management districts with the primary responsibility for the control of air pollution from all sources other than vehicular sources.

The California Constitution provides that the University of California constitutes a public trust, and requires the university to be administered by the Regents of the University of California, a corporation in the form of a board, with full powers of organization and government, subject to legislative control only for specified purposes.

This bill would request the Regents of the University of California to conduct a pilot project in the County of Imperial and the Coachella Valley to develop a 3-day wintertime regional dust forecast capability and a dust storm early warning system for the monsoon season, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Article 8.1 (commencing with Section 92688) is
2 added to Chapter 6 of Part 57 of Division 9 of Title 3 of the
3 Education Code, to read:

4

5 Article 8.1. County of Imperial and Coachella Valley Dust
6 Forecast and Warning System Pilot Project

7

8 92688. (a) The Regents of the University of California are
9 hereby requested to conduct a pilot project in the County of
10 Imperial and the Coachella Valley to develop a three-day
11 wintertime regional dust forecast capability and a dust storm early
12 warning system for the monsoon season.

13 (b) The goals of the pilot project shall be to demonstrate the
14 capacity to improve on existing dust forecasts and air quality
15 information, and to quantify the value of these products within the
16 County of Imperial and the Coachella Valley.

17 (c) In conducting the pilot project, the Regents of the University
18 of California are hereby requested to do both of the following:

19 (1) Work with local groups to identify effective communication
20 strategies and to focus initial effort on providing actionable
21 information to historically underserved groups in the County of
22 Imperial and in the Coachella Valley.

23 (2) Identify opportunities for citizen science and education
24 applications of the pilot project.

O

ASSEMBLY BILL

No. 2757

Introduced by Assembly Member Garcia
(Coauthor: Senator Padilla)

February 15, 2024

An act to add and repeal Section 12097.6 of the Government Code, relating to economic development.

LEGISLATIVE COUNSEL'S DIGEST

AB 2757, as introduced, Garcia. Southeast California Economic Region.

Existing law establishes the Governor's Office of Business and Economic Development, also known as "GO-Biz," to, among other duties, serve the Governor as the lead entity for economic strategy and the marketing of California on issues relating to business development, private sector investment, and economic growth. In this regard, existing law authorizes GO-Biz to develop content on its internet website or through other mediums to be used for public dissemination, through outreach activities, in order to provide information and resources to inform the general public about place-based and other geographically targeted economic development programs, including California Promise Zones and California Opportunity Zones. Existing law requires the office to convene, at least annually, representatives from various programs and agencies across the state and from various federal programs and agencies for the purpose of discussing how California can leverage promise zones and opportunity zones to meet state and local community and economic development needs.

Existing law establishes the Community Economic Resilience Fund Program, within the Workforce Services Branch of the Employment

Development Department, to build an equitable and sustainable economic recovery from the impacts of COVID-19 on California’s industries, workers, and communities, and to provide for the durability of that recovery by fostering long-term economic resilience in the overall transition to a carbon-neutral economy. Existing law requires the Community Economic Resilience Fund Program to be administered by Labor and Workforce Development Agency, the Office of Planning and Research, and GO-Biz. Existing law refers to these 3 agencies as the Inter-Agency Leadership Team.

This bill would, until January 1, 2035, designate the Southeast California Economic Region, as specified, and would state that its purpose is to, among other things, better align state and federal programs, services, and funding within those communities most impacted by the extraction and processing of lithium and other minerals from the Salton Sea and additional clean energy development in the surrounding areas within the region. The bill would require the Inter-Agency Leadership Team, on or before June 1, 2025, to prepare a list of state programs that use the Southeast California Economic Region designation for planning and funding purposes, as specified. The bill would authorize the Southeast California Economic Region to facilitate regional collaboration on developing a strategy-driven plan for regional economic development, as described.

The bill would make legislative findings and declarations as to the necessity of a special statute for the County of Imperial.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) A sustained effort is underway to establish a high road
- 4 economy centered on inclusive, sustainable, and equitable use of
- 5 lithium and other minerals and renewable energy resources in the
- 6 Salton Sea region. Full deployment of these renewable power
- 7 resources could provide a once-in-a-generation opportunity to
- 8 support transformative economic growth within this historically
- 9 disinvested area, bringing family-sustaining jobs and real economic
- 10 opportunities to California’s most underserved residents.

1 (b) The region’s current access to economic incentives must be
2 improved to drive an inclusive high road economic vision. If not
3 proactively addressed, resource extraction can result in the region
4 being less economically, environmentally, and socially well-off
5 when these highly prized renewable energy resources are exported
6 for processing. A more comprehensive and balanced approach
7 recognizes the environmental and public health costs already borne
8 by the people in the region and commits that the buildout of
9 Lithium Valley and its related economic activities include
10 processing, manufacturing, research facilities, workforce
11 development, public health improvements, infrastructure
12 enhancements, and other community benefits.

13 (c) One impediment to an inclusive transition to a net-zero
14 emission economy and realization of the economic and national
15 security benefits is government-imposed administrative challenges
16 to collaboratively applying for and deploying funds within the
17 region. Due to their historically small populations, these desert
18 regions have been attached to regional planning and program areas
19 that lie beyond significant geographic barriers. For example, the
20 County of Imperial has been grouped with primarily urban County
21 of San Diego and the Coachella Valley with the Inland Empire.
22 However, these southeastern communities have vastly different
23 needs, resources, and demographic profiles from other areas within
24 their foster homes. This shortsighted government administrative
25 practice dilutes the interests, voices, and opportunities of the people
26 and businesses that comprise the Imperial and Coachella Valleys.

27 (d) This misassignment of southeastern desert communities was
28 documented in the December 2022 report by the Blue Ribbon
29 Commission on Lithium Extraction in California, published by
30 the Energy Commission, which recommended the designation a
31 “Salton Sea Region,” consisting of the Eastern Coachella and
32 Imperial Valleys. More specifically, the report called for the
33 recognition of a Salton Sea Region that includes all of the County
34 of Imperial and the Eastern Coachella Valley and Palo Verde
35 Valleys of the County of Riverside, extending from the City of
36 Coachella to the unincorporated communities near the Salton Sea
37 and then farther east to the California-Arizona border.

38 (e) The Blue Ribbon Commission report states that this large
39 area is economically distinct from other state regions, with
40 approximately 150,000 people living and working in its

1 communities. Major employment sectors across the region are
2 described as agriculture and tourism, making these communities
3 more similar to each other than they are to the economies of the
4 Inland Empire and San Diego. The demographic makeup of the
5 population in the Salton Sea Region designated in the Commission
6 report is also distinct from its neighboring regions due to the
7 substantially higher percentage of households where Spanish,
8 rather than English, is the primary language.

9 (f) To capture the full benefits of the Lithium Valley renewable
10 energy development hub, the southeastern desert valleys need a
11 definitive economic development designation that supports efficient
12 resource attraction and fosters economic relationships between
13 business, labor, and community. The goal for such a designation
14 is to enable a “regional roadmap for economic recovery” that
15 prioritizes the creation of accessible, high-quality jobs, improved
16 quality of life, and critical extraction, processing, manufacturing,
17 and supply chain opportunities consistent with the needs and assets
18 of the southeastern desert valley communities.

19 (g) It is the intent of the Legislature to establish the Southeast
20 California Economic Region, which will facilitate collaboration
21 with state, federal, regional, and local organizations, entities, and
22 governments on issues of mutual interest that advance the economy
23 and quality of life of residents and businesses. A special focus of
24 this work shall be those communities and groups of individuals
25 who have historically been excluded from decisionmaking and the
26 benefits of economic development projects.

27 SEC. 2. Section 12097.6 is added to the Government Code, to
28 read:

29 12097.6. (a) The Southeast California Economic Region is
30 hereby designated, subject to the provisions of this section.

31 (b) The boundaries of the Southeast California Economic Region
32 align with the Southeast California Economic Zone recommended
33 in the Governor’s Blue Ribbon Commission on Lithium Extraction
34 in California report and shall include all of the following:

35 (1) All unincorporated areas of the County of Imperial,
36 including, but not limited to, one or more of the following
37 census-designated places:

38 (A) Bombay Beach.

39 (B) Desert Shores.

40 (C) El Centro Naval Air Facility CDP, California.

1 (D) Heber.

2 (E) Niland.

3 (F) Ocotillo.

4 (G) Palo Verde.

5 (H) Salton City.

6 (I) Salton Sea Beach.

7 (J) Seeley.

8 (K) Winterhaven.

9 (2) All unincorporated areas of the County of Riverside,
10 including census-designated places, that lie south of the 33rd
11 parallel north and west of the 116th meridian west.

12 (3) All of the following incorporated jurisdictions:

13 (A) The City of Brawley.

14 (B) The City of Calexico.

15 (C) The City of Calipatria.

16 (D) The City of El Centro.

17 (E) The City of Holtville.

18 (F) The City of Imperial.

19 (G) The City of Coachella.

20 (H) The City of Indio.

21 (I) The City of Westmorland.

22 (c) The purpose of the Southeast California Economic Region
23 is to accomplish both of the following:

24 (1) To better align state and federal programs, services, and
25 funding within those communities most impacted by the extraction
26 and processing of lithium and other minerals from the Salton Sea
27 and additional clean energy development in the surrounding areas
28 within the region.

29 (2) To contribute to the nation's defense and security by
30 stimulating local and equitable economic development activities
31 that benefit residents, workers, and businesses, using participatory
32 decisionmaking and taking a multijurisdictional approach, which
33 leverages the competencies of public, private, and nonprofit sectors
34 for the region's transformational future.

35 (d) (1) On or before June 1, 2025, the Inter-Agency Leadership
36 Team, as specified in Section 14531 of the Unemployment
37 Insurance Code, shall prepare a list of state programs that shall
38 use the Southeast California Economic Region designation for
39 planning and funding purposes.

1 (2) The list shall, to the extent necessary, provide guidance to
2 state agencies on how to acknowledge and utilize the Southeast
3 California Economic Region designation and boundaries in
4 program and service delivery, planning activities, and making
5 funding awards.

6 (3) The list may include information on statutory impediments
7 to using the Southeast California Economic Region designation
8 in applying for other state and federal funding or services.

9 (e) (1) The Southeast California Economic Region may
10 facilitate regional collaboration on developing a strategy-driven
11 plan for regional economic development that builds upon and
12 aligns with the inclusive planning efforts of previously approved
13 plans and strategies.

14 (2) The inclusive planning efforts of the Southeast California
15 Economic Region may include, but are not limited to, the
16 Community Economic Resilience Fund Program, authorized
17 pursuant to 14531 of the Unemployment Insurance Code, and high
18 road training partnerships, as defined in subdivision (s) of Section
19 14005 of the Unemployment Insurance Code, relating to renewable
20 energy that includes the County of Imperial.

21 (3) The strategy-driven plan shall, at a minimum, meet the
22 requirements of a comprehensive economic development strategy
23 and be used to apply for the federal designation of an economic
24 development district by the United States Department of
25 Commerce.

26 (f) This section does not require cities or counties in the
27 Southeast California Economic Region to take any specific actions
28 or to participate in activities or funding awarded to the Southeast
29 California Economic Region, unless the jurisdiction has specifically
30 indicated that it wishes to participate or if the locality's
31 participation is otherwise required by separate statute or agreement.

32 (g) This section shall remain in effect only until January 1, 2035,
33 and as of that date is repealed.

34 SEC. 3. The Legislature finds and declares that a special statute
35 is necessary and that a general statute cannot be made applicable
36 within the meaning of Section 16 of Article IV of the California
37 Constitution because of the unique circumstances and challenges

7

- 1 relating to the development of lithium extraction and processing
- 2 in the County of Imperial.

O

Introduced by Senator GroveJanuary 29, 2024

An act to amend Section 47100 of the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 974, as introduced, Grove. Lithium Extraction Tax: fund distribution.

Existing law, the Lithium Extraction Tax Law, imposes a lithium extraction excise tax upon each metric ton of lithium carbonate equivalent extracted from geothermal fluid, spodumene ore, rock, minerals, clay, or any other naturally occurring substance in this state, as specified. Existing law requires the California Department of Tax and Fee Administration to administer and collect the tax and requires all collected revenues, less refunds and reimbursement to the department for administrative expenses, to be deposited into the Lithium Extraction Excise Tax Fund and disbursed in the manner prescribed. Existing law requires 80% of the moneys in the Lithium Extraction Excise Tax Fund to be disbursed by the Controller to all counties in proportion to the amounts collected for lithium extraction within each county, as specified, and 20% of the moneys to be deposited into the Salton Sea Lithium Fund.

This bill would, instead of depositing 20% of the moneys in the Lithium Extraction Excise Tax Fund into the Salton Sea Lithium Fund, deposit 20% of the revenues collected in the County of Imperial into the Salton Sea Lithium Fund. The bill would also distribute 20% of the revenues collected in the County of Kern to communities in the County of Kern that are the most directly and indirectly impacted by the lithium extraction activities. The bill would remove a restriction on the Lithium

Extraction Excise Tax Fund, and would change the amount deposited into the Salton Sea Lithium Fund, both continuously appropriated funds, thereby making an appropriation.

This bill would make legislative findings and declarations as to the necessity of a special statute for the County of Kern.

Vote: 2/3. Appropriation: yes. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 47100 of the Revenue and Taxation Code
2 is amended to read:

3 47100. All revenues collected pursuant to this part, less refunds
4 and reimbursement to the department for expenses incurred in the
5 administration and collection of the taxes imposed by this part,
6 shall be deposited into the Lithium Extraction Excise Tax Fund,
7 which is hereby created in the State Treasury. Notwithstanding
8 Section 13340 of the Government Code, moneys in the fund are
9 continuously appropriated, without regard to fiscal year, as follows:

10 (a) (1) Eighty percent shall be disbursed by the Controller to
11 all counties in proportion to the amounts of the taxes, interest,
12 penalties, and other amounts collected for lithium extraction within
13 each county. Each county shall establish for deposit of these
14 revenues an account or fund separate from the other accounts and
15 funds of the county.

16 (2) (A) Of the amount disbursed to the County of Imperial
17 pursuant to this subdivision, the county shall establish a method
18 to distribute an amount not less than 30 percent of that disbursed
19 amount to the County of Imperial communities that are most
20 directly and indirectly impacted by the lithium extraction activities,
21 including, but not limited to, the following communities:

22 (i) The directly affected communities listed below:

- 23 (I) Bombay Beach.
- 24 (II) The City of Brawley.
- 25 (III) The City of Calipatria.
- 26 (IV) Niland.
- 27 (V) The City of Westmorland.

28 (ii) The indirectly affected communities listed below:

- 29 (I) Bard.
- 30 (II) The City of Calexico.

- 1 (III) Desert Shores.
- 2 (IV) The City of El Centro.
- 3 (V) Heber.
- 4 (VI) The City of Holtville.
- 5 (VII) The City of Imperial.
- 6 (VIII) Ocotillo.
- 7 (IX) Palo Verde.
- 8 (X) Salton City.
- 9 (XI) Salton Sea Beach.
- 10 (XII) Seeley.
- 11 (XIII) Winterhaven.
- 12 (XIV) Vista Del Mar.

13 (B) The County of Imperial shall annually, on a date and in a
 14 manner determined by the department, report to the department
 15 the communities to which funding was distributed pursuant to this
 16 paragraph.

17 ~~(b) Twenty percent~~ *Beginning on or after the effective date of*
 18 *the act amending this subdivision, 20 percent of the revenues*
 19 *collected in the County of Imperial shall be deposited into the*
 20 *Salton Sea Lithium Fund created in Section 2951 of the Fish and*
 21 *Game Code. Twenty percent of the revenues collected in the County*
 22 *of Kern shall be distributed in communities in the County of Kern*
 23 *that are the most directly and indirectly impacted by the lithium*
 24 *extraction activities.*

25 SEC. 2. The Legislature finds and declares that a special statute
 26 is necessary and that a general statute cannot be made applicable
 27 within the meaning of Section 16 of Article IV of the California
 28 Constitution because of the lithium extraction occurring in the
 29 County of Kern and the subsequent allocation the impacted
 30 communities are entitled to receive from lithium tax revenue.

The 2024-25 Budget:

Salton Sea Management Program

GABRIEL PETEK | LEGISLATIVE ANALYST | FEBRUARY 2024

SUMMARY

The Governor’s budget proposes \$65.2 million from the General Fund in 2024-25 to support the Salton Sea Management Program (SSMP) and authority for 18 new positions phased in over two years. This includes \$60 million on a one-time basis to initiate six capital projects. Beginning in 2026-27, the Governor proposes to support the 18 positions with the Salton Sea Lithium Fund, which is anticipated to receive revenue from a lithium extraction tax in the coming years.

Weigh Trade-Offs of Funding the Governor’s Proposed Salton Sea Projects—Perhaps at a Partial Level—Against Other Budget Priorities. Because the state is experiencing a serious—and worsening—budget problem, the Legislature will need to be very selective about approving any new General Fund spending proposals. At the same time, addressing serious public health impacts from toxic dust and the deteriorating bird habitat at the Salton Sea remain important—and required—state responsibilities. Although the Governor’s proposed projects have merit, the Legislature will have to consider these relative to its other budget priorities. It could wait to see if other funding sources materialize in the next couple of years rather than providing \$60 million from the General Fund this year. For example, lithium tax revenues could provide some funding for the program in the next few years (although the amount and timing remain fairly uncertain). The state also expects to receive \$175 million in federal funding over the next two years—contingent on local water agencies reducing their use of Colorado River water—which could be used to support one of the larger proposed projects. If funding these activities is a top priority for the Legislature in 2024-25, we recommend it consider a couple of options: (1) providing a lower amount of funding to support fewer projects or (2) providing the full amount but to support a smaller number of projects all the way through completion rather than just for their initial stages (so the state does not start projects it does not have the funding to complete).

Recommend Approving Two Components of the Proposal. First, we recommend approving approximately \$700,000 in 2024-25 and \$1.2 million in 2025-26 and ongoing for eight positions to maintain and operate existing projects that are complete or nearly complete. The state has already expended significant time and resources to plan, design, and construct these projects. This funding would preserve the value of those investments and help ensure the projects achieve their intended goals. These costs could potentially shift from the General Fund to the Salton Sea Lithium Fund in the future. Second, we recommend approving \$3 million on a one-time basis for the state’s share of costs of a federally supported feasibility study to explore long-range restoration options at the Salton Sea. The state already entered into an agreement with the federal government to share costs. Moreover, depending on what the study finds, it could lead to significant federal project support in the future.

Recommend Legislature Craft a Longer-Term Approach for How to Fund the State’s Ongoing Commitments at the Salton Sea. Addressing the state’s commitments at the Salton Sea will far exceed a one-time \$60 million appropriation for projects. We suggest the Legislature consider some combination of the following approaches for crafting a longer-term funding plan, none of which is without trade-offs: (1) bond financing, which could support completion of all projects that are part of the first phase of restoration (but will require voter approval); (2) lithium tax revenues, which could support certain projects or activities (but for which the timing and amounts available still are uncertain); (3) annual General Fund built into SSMP’s baseline budget (which is complicated by the current state budget deficit); and (4) special funds, such as a dedicated amount from the Greenhouse Gas Reduction Fund (which also faces competing priorities).

BACKGROUND

Overview of the Salton Sea

History of the Salton Sea. The Salton Sea, located in Riverside and Imperial Counties, is California's largest inland lake. It is a terminal lake with no outlet to the ocean. Over the past several thousand years, the Sea has intermittently both filled and dried up in this location. The modern Sea was created in 1905 when a nearby irrigation canal carrying Colorado River water breached and water overflowed into the lake bed for nearly two years. In the subsequent years, agricultural runoff from farms in the Imperial Valley fed the Sea and prevented it from fully drying up. However, over the past several decades, changes in agricultural water use practices by nearby farmers have gradually diminished inflow into the Sea, causing it to slowly shrink. Between the 1940s and 1960s, the Sea was a popular destination for tourism, fishing (the Sea was stocked with sport fish), and water sports. However, due to episodes of flooding, fish die-offs, and some of the other trends described in this report, tourism over recent decades has largely faded away. Many landowners lay claim to the Sea and its surrounding areas, including the Torres Martinez Desert Cahuilla Indians, who have deep roots in the area. Other landowners include the state, Riverside County, Imperial Irrigation District (IID), Coachella Valley Water District (CVWD), the federal Bureau of Land Management, the federal Bureau of Reclamation (Reclamation), and private landowners.

Sea Is Extremely Saline. While the modern Sea started off as a relatively fresh water body in 1905, it is now more than twice as salty as the Pacific Ocean. This is partially due to the high salinity of the agricultural runoff water that has been the Sea's primary source of replenishment for the past century. Additionally, because the Sea has no outlet to the ocean, water that enters the Sea can only depart through evaporation, leaving salts behind. The Sea therefore has and will continue to become increasingly saline over time.

Sea Provides Important Bird Habitat.

Despite being a relatively new water body in geologic terms, the Sea has become an important habitat area for a large number of birds. As wetland habitat has been lost to development throughout California and northern Mexico, many bird species have come to rely on the Sea for food, rest, and nesting—particularly during their annual migrations. More than 270 species of birds use the Sea on a regular basis, including many that state and/or federal law have identified as being threatened or endangered. The Salton Sea National Wildlife Refuge—now named for Sonny Bono—was established in 1930 for waterfowl and other migratory birds. Hundreds of thousands of birds use the Sea as a stopover point on their migrations each year.

Changes Affecting the Salton Sea

Several changes in recent times have affected the size of the Sea, the quality of the water and habitat, the region around the Sea, and the way that the Sea is managed.

2003 Colorado River Agreement Reduced Salton Sea Inflow. In 2003, the state, the federal government, native tribes, and a number of water districts in the region entered into a series of agreements to address longstanding issues regarding use of Colorado River water. These agreements are known collectively as the Quantification Settlement Agreement (QSA). The QSA included an agreement to transfer up to 300,000 acre-feet of water annually (ramping up over time) from IID—which uses Colorado River water for agricultural irrigation—to three other Southern California water districts (the San Diego County Water Authority [SCDWA], CVWD, and the Metropolitan Water District) for residential uses. (An acre foot is the amount of water that would cover an acre of land at a depth of one foot.) By reducing the amount of water available for agricultural uses in the Imperial Valley, these transfers have had the effect of decreasing the amount of water that runs off fields into the Sea. However, reductions in inflow thus far have been less than what was initially estimated.

Specifically, annual inflow to the Sea declined from about 1.2 million acre-feet in 2003 to about 1 million acre-feet in 2022 (whereas previous projections had expected it to drop to between 700,000 and 800,000 acre-feet by that time). Nevertheless, reductions are expected to progress and evaporation consistently outpaces inflows, meaning the Sea will continue to contract.

2002 SWRCB Order Delayed Impacts of Water Transfers Until 2017. Anticipating the potential effects of the QSA, the State Water Resources Control Board (SWRCB) ordered delays in the pace of water flow reductions. Specifically, the board issued a water rights order in 2002 requiring that for 15 years, IID had to continue to provide inflow water to the Sea at levels sufficient to maintain the salinity levels that would have existed absent the transfer. This was intended to provide the state time to develop a long-term plan to address the effects of the QSA transfers. That requirement to provide mitigation flows expired at the end of 2017.

Shrinking Salton Sea Has Significant Negative Impacts on Public Health, Wildlife, and Local Economy. The shrinking Salton Sea is exposing dry lakebed, referred to as “playa.” The playa is covered in dust containing toxic elements like selenium and arsenic resulting from the agricultural runoff that has fed the Sea. When this dust becomes airborne due to the area’s high winds and arid climate, it increases the amount of fine particulate in the air, which in turn can increase the risk of asthma, bronchitis, and other lung diseases for the surrounding residents and workers. The air quality around the Sea is already poor, due to pollution from agricultural activities and the nearby city of Mexicali, Mexico, and the region consistently fails to meet federal air quality standards designed to protect public health. [A 2019 study](#) led by researchers at the University of Southern California found that about 22 percent of children in the area suffer from asthma, which is nearly three times the nationwide incidence. The shrinking Sea also impairs wildlife habitats. Specifically, as the Sea evaporates and salinity and other toxic elements become more concentrated, conditions become increasingly inhospitable for the fish upon which migratory birds depend as a source of food. Moreover, a retreating Sea will

dry out the established vegetation and wetlands that exist along the edges of the Sea, degrading that habitat for birds as well as the fish—including the endangered desert pupfish—and insects that they eat. In addition, the changing Salton Sea has and will continue to have significant impacts for local residents (beyond the serious public health impacts). These include repeated and sometimes significant fish die-offs and distasteful sulfurous odors when temperatures are high due to the algae and nutrients in the Sea. These conditions have contributed to a decline in recreation and tourism over the past several decades, which has correspondingly depressed home values and limited job opportunities and economic development. The unemployment rate for the region is significantly higher than the statewide average. As the Sea shrinks, former lakeside houses and boat docks become stranded far from the water, further depressing their desirability, recreational utility, and resale value.

Water Board Stipulated Order Requires Implementation of 10-Year Management Plan. Despite 15 years to plan between the QSA in 2003 and the end of the temporary inflow to the Sea in December 2017, the state did not implement any major management projects at the Salton Sea during that time. In 2007, the California Natural Resources Agency (CNRA) released a study of eight potential approaches to restoring the Sea, and recommended a “preferred alternative” to the Legislature with a corresponding cost of \$9 billion. Funding constraints—including those associated with the severe recession that followed—rendered this plan infeasible. In 2014, frustration with the slow pace of management activities led IID to petition SWRCB to amend its original QSA-related water rights permit and require the state to begin implementing a management plan. This led to the corresponding SWRCB action in 2017 described in the next paragraph. The state adopted—and began funding—a plan for making significant progress on management activities in 2017. Specifically, the state established SSMP—led by CNRA in collaboration with the Department of Water Resources (DWR) and California Department of Fish and Wildlife (CDFW)—and published a [Phase I: 10-Year Plan](#) to guide state projects at

the Sea and address potential public health and environmental effects over the subsequent decade (we describe the SSMP and Phase 1: 10-Year Plan in more detail below).

In response to the 2014 petition from IID, SWRCB approved a [stipulated water rights order](#) in November 2017 that revised the conditions of the permit approval that SWRCB granted for the QSA. Specifically, the order requires the state to meet annual acreage goals included in the Phase 1: 10-Year Plan. These annual goals specify the number of acres on which the state must construct habitat restoration and dust suppression projects. The order also requires that for each year, at least half of the project acres that the state constructs must provide habitat benefits for fish and wildlife; that is, no more than half of annual construction can be solely focused on dust suppression. Every year, SWRCB holds a public meeting by March 31 to hear a progress report on the previous year, including updates on completed projects and the amount of acreage completed, as well as plans for the coming year and funding availability. The order specifies that if the state fails to meet the specified acreage goals in a given year, it must “catch up” the following year and report to SWRCB on how it will address the deficiency. In addition to the SWRCB order, implementation of the Phase 1: 10-Year Plan is supported by an agreement with the federal government. Specifically, CNRA entered into a memorandum of understanding (MOU) with the federal Department of the Interior affirming that the state has the lead role in Salton Sea management efforts, and expressing mutual intent to try to support achievement of the goals in the Phase 1: 10-Year Plan (such as by expediting permitting processes).

Management of the Salton Sea

Management of the Sea involves many actors at all levels of government, Native American tribes, and nongovernmental organizations. Below, we describe the various players and focus in on the state and federal roles.

Many Agencies Have a Role to Play at the Salton Sea. Numerous agencies at all levels of government are involved in responding to conditions at the Salton Sea. The principal agencies and their major roles are described in [Figure 1](#).

As shown, both state and local agencies are implementing activities to address the impacts of changing conditions at the Sea. Many of the local agency responsibilities result from mitigation and environmental permitting requirements associated with the QSA.

State Bears Primary Financial Responsibility and Plays Leadership Role. As required by the QSA, IID, CVWD, and SDCWA were responsible for contributing some funding to begin to mitigate the effects of the water transfers, and the state has committed to implementing and funding the additional activities necessary to address public health and wildlife impacts. These commitments were codified through several pieces of legislation implementing the QSA, including Chapter 613 of 2003 (SB 654, Machado), which specified environmental mitigation spending requirements for the QSA agencies. The legislation also stated that “any future actions to restore the Salton Sea will be the sole responsibility of the State of California.” Finally, the SWRCB stipulated order from 2017 and subsequent MOU with the U.S. Department of the Interior further solidify the state’s lead role in mitigating deleterious impacts of a shrinking Sea. These state responsibilities are focused on responding to public health and wildlife-related impacts. The state carries out this role through the SSMP. (While statute requires the state to consider local economic impacts, it does not assign fiscal responsibility to the state to address any such effects that may result from a shrinking Salton Sea. Addressing such concerns would fall under the jurisdiction of local governments and community organizations.)

Reclamation and U.S. Army Corps of Engineers (USACE) Involved at the Federal Level. At the federal level, the U.S. Department of the Interior—primarily through Reclamation—and USACE play key roles in supporting efforts at the Sea.

- **Reclamation Providing Funding and Other Support to SSMP.** Reclamation owns about 81,000 acres at the Sea (the Bureau of Land Management owns an additional 12,000 acres). Consequently, SSMP regularly collaborates with Reclamation on projects occurring on its land (including securing land access agreements). In addition, Reclamation has provided some funding for projects at the Sea.

Figure 1

Agencies With Major Responsibilities at the Salton Sea

Entity	Role
Local	
Imperial Irrigation District (IID)	As a party to QSA, transfers up to 300,000 acre-feet per year of its water to SDCWA, CVWD, and Metropolitan Water District (MWD). Helps fund the mitigation projects required by the QSA permits and implements those projects for the QSA JPA. One of the largest landowners in the region. Delivers Colorado River water to irrigate farmland in the Imperial Valley near the Sea.
Coachella Valley Water District (CVWD)	As a party to QSA, receives up to 100,000 acre-feet of additional water per year from IID. Helps fund the mitigation projects required by the QSA permits and serves as legal counsel for the QSA JPA. Delivers water for irrigation and domestic uses in the Coachella Valley near the Sea.
San Diego County Water Authority (SDCWA)	As a party to QSA, receives up to 200,000 acre-feet of additional water per year from IID. Helps fund the mitigation projects required by the QSA permits and handles administration and finance for the QSA JPA.
QSA JPA	JPA including IID, SDCWA, CVWD, MWD, and the state Department of Fish and Wildlife. Administers funding for implementing the mitigation activities required by QSA permits.
Salton Sea Authority	JPA including IID, CVWD, the Torres Martinez Desert Cahuilla Indians, and Imperial and Riverside counties. Partners with other entities to develop projects to restore the Sea.
State	
Natural Resources Agency	Serves as lead agency overseeing and guiding state's Salton Sea activities. Coordinates and negotiates with other local, state, and federal agencies.
Department of Water Resources	Implements most of the state's restoration projects at the Sea, including engineering and design, contracting, construction, and operations and maintenance.
State Water Resources Control Board	Responsible for protecting water quality and water rights, including by: issuing permit for QSA water transfers, imposing certain permit conditions (such as provision of mitigation water for 15 years), and requiring that the state construct specified amounts of management projects at the Sea each year.
Department of Fish and Wildlife	Helps design Salton Sea habitat projects, will develop and implement wildlife monitoring program for constructed habitat. Issues regulatory permits for projects at the Sea as required by state law. Administers Salton Sea Restoration Fund.
Tribal	
Torres Martinez Desert Cahuilla Indians	Largest private landowner of property around the Sea, including roughly half of the land under the Sea. Partners with other agencies on restoration projects, including pilot wetland project on tribal land at north end of Sea.
Federal	
Bureau of Reclamation	Owns significant amount of land under and around the Sea.

QSA = Quantification Settlement Agreement and JPA = Joint Powers Authority.

- **USACE Conducting National Environmental Protection Act Review.** USACE is the lead agency for the required National Environmental Protection Act environmental assessment process for the Phase 1: 10-Year Plan. USACE released the [draft environmental assessment](#) in June 2022. In addition, USACE works with SSMP to secure necessary federal permits for projects.

- **USACE Also Conducting Feasibility Study of Potential Long-Term Restoration Activities.** USACE is leading a long-term feasibility study, the [Imperial Streams Salton Sea and Tributaries Feasibility Study](#), to explore potential long-term ecosystem restoration, flood management, or other land- and water-resource projects. DWR, the Salton Sea Authority, and USACE are sharing the costs of the study.

Expected to take three years, the study could lead to future federal financial support from USACE depending on its findings and the viability of potential projects.

SSMP Progress to Date

As required by the SWRCB order, SSMP currently is undertaking projects to reduce exposed lakebed, create and enhance habitat and vegetation, and suppress dust. Although these often are discussed as “restoration” projects, they will not restore the Sea to its original conditions. Instead, these projects seek to decrease the potential harmful effects of the water transfers. (As discussed later, the QSA also requires the local water agencies to fund and carry out mitigation projects.) The order also required SSMP to develop a long-range plan for the Sea following Phase 1.

SSMP Behind in Meeting Acreage Targets.

As shown in **Figure 2**, to date, SSMP has about 7,600 acres of projects completed or under construction (completed acreage totals less than 2,500). One effort nearing completion is Species Conservation Habitat (SCH), an approximately 4,100-acre project located at the southern end of the Sea that reduces exposed playa and

creates habitat and is the state’s first large-scale project in the region. Three smaller dust suppression projects nearing completion include approximately 1,700 acres. These efforts seed and plant native vegetation and use grass bales to protect the vegetation from wind-blown dust and soil erosion. Three additional projects totaling 1,022 acres are under construction or about to start construction—a pilot project to create fish habitat, a project to preserve and enhance wetlands, and a project to restore several stranded channels. In addition, SSMP has completed about 755 acres of interim dust suppression projects. Although SWRCB’s stipulated order requires the state to meet annual acreage targets, SSMP has missed these targets during the first five years of the Phase 1: 10-Year Plan, as shown in the figure. By the end of 2023, the order required SSMP to have completed a cumulative 11,500 acres, but thus far the state has completed fewer than 2,500 acres.

SSMP Is Planning Projects to Cover an Additional 8,165 Acres as Part of Phase 1.

As discussed below related to the Governor’s budget proposal, SSMP is in the final stages of planning, design, and permitting for handful of additional projects (totaling about 8,165 acres) intended to be completed over the 2026 to 2028 time frame. Taken altogether, completed, in-progress, and planned projects total about 15,700 acres, which only gets the state about halfway to the 2028 required target of 29,800 acres. SSMP has not yet formally identified additional projects that it might undertake to achieve the intended objective.

SSMP Released Draft Long-Range Plan in 2022. As required by the SWRCB stipulated order, SSMP developed and released for public comment a **long-range plan** in December 2022. This plan explores various restoration concepts that could be implemented after 2028 (at completion of the Phase 1: 10-Year Plan), including some that assume importation of water and some that do not.

Figure 2

Acreage Targets for Habitat and Dust Suppression Projects on Exposed Playa

Year	Required Number of Acres Annually ^a	Acres Actually Completed or Under Construction
2018	500	—
2019	1,300	—
2020	1,700	755
2021	3,500	1,000-2,000
2022	1,750	290
2023	2,750	5,400
2024	2,700	—
2025	3,400	—
2026	4,000	—
2027	4,000	—
2028	4,200	—
Totals	29,800	~7,600

^a Acreage targets in the Salton Sea Management Program’s Phase 1: 10-Year Plan were formalized in the State Water Resources Control Board’s 2017 Stipulated Order. The Salton Sea Management Program must construct a cumulative 29,800 acres of projects by December 31, 2028.

Funding for Salton Sea Management Program

Approximately \$590 Million Has Been Authorized for State Management Activities.

As shown in **Figure 3**, a total of nearly \$590 million has been authorized for SSMP projects and activities. Most of this funding—\$347 million—has come from statewide voter-approved general obligation bonds, while another \$101 million has been provided from the General Fund. (Recent state budgets had planned to provide a total of \$220 million in General Fund support from 2021-22 through 2023-24, which was then partially scaled back in response the 2023-24 budget problem. Specifically, in the 2023 May Revision the Governor proposed reducing planned funding for the Salton Sea by \$169 million to help solve the budget deficit. The Legislature modified the Governor’s proposal and the final budget resulted in a \$119 million

reduction to original plans.) SSMP also receives some funding from local water agencies through the Salton Sea Restoration Fund (discussed in more detail below). Lastly, the state has received federal funding from Reclamation—including, most notably, \$70 million in December 2023 from the Inflation Reduction Act specifically to expand the SCH project (the new project is called the SCH Expansion). This federal funding is part of an agreement among Reclamation, the state, IID, and CVWD. The state’s receipt of funding was contingent on the two local water districts making voluntary reductions in their use of Colorado River water (as discussed below, additional funding may be provided through 2026, contingent on additional voluntary reductions). Reclamation also provided \$2 million directly to the Torres Martinez Desert Cahuilla Indians to support its work on Salton Sea activities.

Figure 3

Funding for the Salton Sea Management Program

As of September 20, 2023 (In Millions)

Source	Authorized	Unspent	Use
State	\$448.0	\$2.1	
Proposition 12 (2000)	\$4.8 ^a	—	Species Conservation Habitat (SCH) project construction.
Proposition 50 (2002)	32.9 ^a	\$0.1	Environmental Impact Report and related studies and planning activities; SCH project construction.
Proposition 84 (2006)	44.2 ^a	2.0	SCH project planning and design, support for projects (Red Hill Bay, Seawater Marine Habitat Pilot, and Torres-Martinez Wetlands), and staffing and planning activities.
Proposition 1 (2014)	80.0 ^a	—	Staffing and project design and SCH project construction.
Proposition 68 (2018)	185.0 ^a	—	SCH project construction, habitat and dust suppression projects, North Lake Demonstration Project, and staffing.
Revive the Salton Sea Fund (tax check-off box from 2017-2019)	0.2	—	Restoration projects and/or maintenance and public awareness and education programs.
General Fund	101.0	—	SCH project construction, vegetation enhancement projects, project design, and staffing.
Federal	\$71.8	—	
Bureau of Reclamation	\$1.8	—	State planning activities and implementation of dust suppression projects.
Bureau of Reclamation	70.0	—	Construction and project management of initial SCH Expansion project.
Local	\$68.5	—	
Salton Sea Restoration Fund	\$68.5	— ^b	CDFW staffing, wildlife surveys, monitoring, CEQA review, and permit issuance.
Totals	\$588.2^c	\$2.1	

^a Authorized bond funds do not include state debt service costs for interest.

^b \$68.5 million is the total amount that IID, CVWD, and SDCWA will provide by 2047 (through annual payments of approximately \$1.58 million).

^c Does not include annual General Fund allocations of \$425,000 and annual reimbursements from DWR of \$316,000 to support positions at CNRA and CDFW.

CDFW = California Department of Fish and Wildlife; CEQA = California Environmental Quality Act; IID = Imperial Irrigation District; CVWD = Coachella Valley Water District; SDCWA = San Diego County Water Authority; DWR = Department of Water Resources; and CNRA = California Natural Resources Agency.

Nearly All Existing SSMP Funds Have Been Spent or Committed. The administration indicates that nearly all authorized funding for SSMP displayed in the figure has been spent or committed. This means that new, additional funding will be required for SSMP to conduct maintenance activities on recently completed projects and to pursue planning, design, and construction of additional projects.

New Lithium Extraction Tax Expected to Provide Revenues for SSMP. A new source of funding that is expected to become available to support SSMP projects in the coming years results from a recently approved tax on lithium extraction. The Salton Sea region is rich in geothermal resources and currently is home to a number of facilities that produce and sell geothermal energy. Businesses that own or plan to build such facilities have been developing methods to extract lithium from the brine. Chapter 63 of 2022 (SB 125, Committee on Budget and Fiscal Review) levied a new state excise tax on this lithium extraction as of January 2023. The tax rate ranges from \$400 to \$800 per metric ton of lithium carbonate equivalent that a producer extracts, adjusted annually for inflation. A total of 80 percent of the revenue from this tax will go to the counties where lithium extraction occurs, while the other 20 percent will go to the new Salton Sea Lithium Fund to support restoration projects and grants for community engagement, public amenity, capital improvement, or community-benefit projects in the area. However, no lithium extraction activities have yet begun in the region, and as such, no tax revenue has yet been generated to support the SSMP or local communities.

Reclamation Committed to Provide \$175 Million More in Federal Funding if Local Agencies Meet Water Reduction Conditions. In addition to the \$70 million Reclamation has already provided to support SSMP projects, the state is eligible to receive an additional \$175 million more through 2026. However, the remaining funds are contingent on additional voluntary reductions of Colorado River water use by IID and CVWD. Funding must be used to support the SCH Expansion project, which will restore up to 5,000 acres of playa upon completion.

USACE Study Could Lead to Future Federal Funding if It Identifies Long-Term Restoration Options. The goal of the feasibility study being led by USACE is to identify projects for long-term ecosystem restoration at the Salton Sea. The draft feasibility report is expected in June of 2024 and will be finalized in 2025. Should viable projects for long-term ecosystem improvements be identified in the study and subsequently approved by USACE (and funded by Congress), the state could receive up to 65 percent of associated project costs from the federal government.

Local Agencies Also Have Contributed Funding for Non-State Salton Sea Projects Pursuant to QSA Requirements. In addition to the SSMP projects supported by the funds displayed in Figure 3, local entities also have funded and managed certain projects at the Sea. Specifically, the QSA required the local water agencies that were involved in that agreement—IID, CVWD, and SDCWA—to provide funding up to a cap of \$133 million (in 2003 dollars) and carry out a variety of mitigation projects and activities. These agencies, along with CDFW, formed the QSA Joint Powers Authority (JPA) to help organize these efforts. Because the QSA JPA agencies have made their expenditures over a period of many years, the total funding obligation has been adjusted for inflation and accrued interest. By June 30, 2024, the JPA estimates it will have received cumulative contributions of \$262 million from its members and made cumulative expenditures of \$193 million. In addition to these local projects, the QSA required the JPA to provide \$30 million (in 2003 dollars) as seed money for state-led restoration projects. As this funding is collected, it is deposited into the Salton Sea Restoration Fund, which is administered by CDFW. Adjusted for inflation, this equates to \$68.5 million in total. This funding is included in Figure 3. The state collects annual payments from the JPA of about \$1.6 million to meet this obligation and will continue to do so through 2047.

Future Costs and Funding Sources Remain Uncertain. The state still lacks clarity about how projects will unfold at the Salton Sea in the coming years—and how they will be supported. SSMP plans to continue evaluating potential projects and environmental conditions at the Sea, particularly

as certain milestones are reached—such as completion of the first large-scale project (the SCH project), the USACE National Environmental Protection Act final environmental assessment, the USACE feasibility study, and the Phase 1: 10-Year Plan. The state still has a long way to go on the Phase 1: 10-Year Plan. While SSMP remains undecided about which additional projects the state will pursue to reach the 2028 acreage targets and what activities will follow this first phase, significant uncertainty also exists about how to fund such projects. Moreover, how SSMP will support ongoing operations and maintenance of projects after their initial construction is completed is unclear. Also uncertain is the amount of revenue that will be generated by the lithium extraction tax and when those revenues will be available for SSMP projects. Apart from anticipated lithium tax revenues, no ongoing state funding is dedicated for SSMP projects or maintenance and operations.

Governor’s Budget Proposal

The Governor’s budget proposes \$65.2 million from the General Fund in 2024-25, \$3.3 million from the General Fund in 2025-26, and \$3.3 million from the Salton Sea Lithium Fund in 2026-27 and ongoing for Salton Sea restoration projects and SSMP staffing. We describe the individual components of the proposal below.

Proposes \$60 Million on a One-Time Basis to Initiate Six Projects. As shown in **Figure 4**, the Governor proposes \$60 million one time from the General Fund to begin work on six projects, including the SCH Expansion project. Depending on the project, activities conducted in 2024-25 would include planning, design, and/or permitting. For one small project, funding would support design and construction. The administration currently estimates the total combined cost for these projects at between \$376 million and \$453 million. Once completed, these projects would provide up to 8,165 acres of wetlands, dust suppression, vegetation enhancement, and aquatic habitat.

Figure 4

Governor Proposes \$60 Million in 2024-25 to Initiate Six Salton Sea Projects

(Dollars in Millions)

Project	Purpose	Stage	Proposed Funding	Estimated		
				Total Cost	Completion Date	Acres at Completion
Wister Bird Unit Marsh Bird Habitat	Wetland restoration project	Site preparation and construction	\$0.5	\$0.5-\$0.6	2026	160
IID Clubhouse Enhancement	Dust suppression, vegetation enhancement	Design and permitting	7.0	7.0-8.4	2026	210
SCH Vegetation Enhancement	Wetland restoration, dust suppression, vegetation enhancement	Planning and permitting	11.5	11.5-13.4	2027	535
San Felipe Fan	Dust suppression, vegetation enhancement	Design	30.0	27.0-35.0	2027	660
North Lake	Aquatic habitat restoration	Planning	3.0	80.0-96.0	2027	1,600
SCH Expansion	Aquatic habitat restoration	Design	8.0	250.0-300.0 ^a	2028	Up to 5,000
Totals			\$60.0	\$376.0-\$453.0		Up to 8,165

^a The Salton Sea Management Program received \$70 million from the federal Bureau of Reclamation in 2023 and has the potential to receive an additional \$175 million contingent on Colorado River conservation agreements.

IID = Imperial Irrigation District and SCH = Species Conservation Habitat project.

Requests New Ongoing Funding and Positions at DWR, CDFW, and CNRA.

The Governor’s budget also requests 18 new positions phased in over two years (9 beginning in 2024-25 and another 9 in 2025-26) along with \$1.6 million from the General Fund in 2024-25, \$3.3 million from the General Fund in 2025-26, and \$3.3 million from the Salton Sea Lithium Fund in 2026-27 and ongoing. (The proposal assumes lithium development will begin generating tax revenue sufficient to support these positions in the out-years.) These positions would be responsible for a variety of activities, including maintenance and operations of completed projects (including upkeep of both infrastructure and habitat), data collection, real estate support, environmental science, and management and administrative functions.

The breakdown of funding, positions, and purposes across DWR, CDFW, and CNRA are shown in **Figure 5**.

Proposes \$3.6 Million One Time for State Cost Share of USACE Study and for Technical Contract. The Governor proposes to provide \$3 million from the General Fund in 2024-25 for the state’s current required payment to support the USACE Imperial Streams Salton Sea and Tributaries Feasibility Study pursuant to an agreement the state made with the federal government regarding this work. In addition, the budget proposes \$600,000 on a one-time basis from the General Fund to contract with a company to provide technical support for project planning, environmental and regulatory compliance, and initial project design.

Figure 5

Governor Proposes Ongoing Funding and Positions for Salton Sea Management Program

(Dollars in Thousands)^a

	2024-25		2025-26 and Ongoing		Purpose
	Funding	Positions	Funding	Positions	
DWR	\$719	5	\$1,395	9	Four positions for infrastructure-related maintenance and operations of completed projects. Four positions for data collection, administrative, and real estate support.
CDFW	718 ^b	3	1,715 ^c	8	Four positions for habitat-related maintenance and operations of completed projects. Four positions for environmental science, legal, management, and administrative functions.
CNRA	185	1	185	1	One position for outreach/engagement and grants preparation.
Totals	\$1,622	9	\$3,295	18	

^a Governor proposes to fund positions with General Fund in 2024-25 and 2025-26 and with the Salton Sea Lithium Fund in 2026-27 and thereafter.

^b Includes \$18,000 one time for equipment.

^c Includes \$40,000 one time for equipment and information technology.

DWR = Department of Water Resources; CDFW = California Department of Fish and Wildlife; and CNRA = California Natural Resources Agency.

ASSESSMENT

Below, we discuss the Governor’s Salton Sea proposals in the context of the worsening budget situation and offer some questions for the Legislature to consider as it weighs decisions to balance the budget.

General Fund Condition Requires Tough Choices and a Higher Bar for Approving New Spending. The Governor’s Salton Sea proposals would commit the state to General Fund expenditures of \$65.2 million in 2024-25 and \$3.3 million in 2025-26. Importantly, the current deficit means that General Fund revenues already are insufficient to fund existing baseline commitments. In this context, every dollar of new spending in the budget year comes at the expense of a previously identified priority and requires finding a commensurate level of solution somewhere within the budget. The Governor “makes room” for proposed new spending on Salton Sea projects and staffing by making reductions to funds committed for other programs, including many in the climate and natural resources areas. However, our office estimates that the administration’s revenue projections are overly optimistic and the budget deficit likely will exceed the level of solutions included in the Governor’s proposal, requiring the Legislature and Governor to identify additional actions to balance the budget. Given the serious budget challenges this year, we suggest the Legislature apply a high bar to its review of new spending proposals, be very selective in approving any of them, and recognize that they will require finding additional General Fund solutions from existing commitments.

Maintaining Progress Toward Acreage Goals Represents State Responsibility and Is Important to Avoid Serious Public Health and Environmental Risks... Mitigating the deleterious public health impacts of toxic dust and the environmental implications of deteriorating bird habitat at the Salton Sea remain important—and required—state responsibilities. The SWRCB stipulated order requires at least 29,800 acres of projects be completed by the end of 2028, just under five years from now. While the state does not

have primary financial responsibility for mitigating the impact of a declining Sea on the local economy, it also has an interest in supporting the well-being of residents and businesses in the region.

...Yet Administration Has Sent Mixed Messages on Funding Urgency. The Governor’s May 2023 proposal to reduce \$169 million from previously committed and planned General Fund for Salton Sea projects signaled to the Legislature that funding was not urgently needed to accomplish state goals in the region. (As noted earlier, the Legislature modified this proposal in the final budget action to include a smaller yet still significant reduction of \$119 million.) Now—as the state budget condition has gotten even worse—the administration proposes to partially reverse this action by providing \$65 million in new resources. These mixed messages from the administration make it difficult for the Legislature to gauge the true urgency of providing funding this year. The administration has not provided a compelling explanation for the turnaround between its contention that the SSMP could accommodate such a significant reduction in funding last year and now, less than a year later, its argument that a new augmentation is critical.

Proposal Raises Several Key Questions for Legislative Consideration. The proposed request for \$60 million to initiate six Salton Sea projects raises a number of questions the Legislature might wish to consider as it weighs this request against its other budget priorities.

- **Is SSMP on Track to Meet Annual Acreage Targets, Even if It Receives Requested Funding?** The program and associated projects were very slow to get started—the QSA was signed in 2003 and the first projects were completed about 20 years later. Since the SWRCB stipulated order was issued in 2017, SSMP has missed required annual acreage targets in each of the first five years. Although the program has some momentum currently—nearing completion on its first large-scale project and with numerous projects underway or in planning—what will

happen after these existing projects are complete still is unclear. In previous years, the program had plenty of funding yet still made slow progress—that is, money-on-hand does not appear to have been the key barrier or enabler to project success. For example, finalizing land access agreements with the various landowners around the Sea can be challenging. The administration seemingly resolved—at least temporarily—some of the difficult issues that create significant project delays (land access issues, permitting with a variety of federal and state entities, and uncertainties about the changing environment)—to make recent progress on the SCH project and several smaller projects. However, has the administration been able to resolve or make headway on those issues more generally for upcoming and future projects? What assurances does the Legislature have that if it gives precedence to providing this funding for the SSMP over other state priorities, the program can spend the requested funds promptly and complete the specified activities?

- **Is the Full \$60 Million Truly Needed This Year?** Although the requested \$60 million would be spread across six projects and support various planning, design, permitting—and in one case construction—activities, why this specific amount of funding is required this year is unclear. What specifically does the program plan to accomplish in 2024-25 and is the full \$60 million needed immediately? What are the potential trade-offs and implications of providing a lesser amount?
- **What Is the Longer-Term Plan for Completing the Proposed Projects?** The proposed funding would support the initial stages of five projects as well as design and construction of one small project. Yet the administration has not provided information regarding how subsequent phases of these six projects would be funded. Given the expected General Fund condition over the next several years, the Legislature will want to consider the wisdom of providing funding in 2024-25 to begin projects that the state might be

unable to continue supporting to completion. The Governor's proposal represents a larger multiyear commitment that might be fiscally unfeasible to sustain in the future without taking other measures, such as reducing funding for core ongoing programs to free up General Fund or asking voters to approve a bond measure. As such, the Governor's approach runs the risk of spending funds to start projects, but having to stop the work before they are complete without achieving the actual objectives.

State Cost Share on Feasibility Study Could Help Secure Future Federal Funding. In 2022, the state entered into a cost-sharing agreement with the federal government for the USACE feasibility study and \$3 million is needed for the current required state payment (the total state cost share is \$8 million; the state already paid \$1.5 million and will be required to pay another \$3.5 million in the future). Depending on what the study finds, it could lead to federal project support in the future. Spending a relatively modest amount of state funding for the chance to undertake long-term restoration with federal support seems a compelling justification for this proposed expenditure, despite the General Fund condition.

Supporting Maintenance and Operations of Completed Projects Would Preserve State's Investments and Objectives... As shown in Figure 5, the Governor proposes a total of 18 new positions for the state's work at the Salton Sea. Of these, eight new positions—four at DWR and four at CDFW—would be to maintain and operate (1) the SCH project as it reaches completion and (2) three vegetation enhancement projects that are nearing completion. (Five positions would be authorized starting in 2024-25 and an additional three beginning in 2025-26.) These positions have an associated General Fund cost of about \$700,000 in 2024-25 growing to about \$1.2 million in 2025-26 and ongoing. (The proposal plans to shift support for these positions to the Salton Sea Lithium Fund beginning in 2026-27.) The state has already expended significant time and resources to plan, design, and construct these projects. As such, a strong rationale exists for providing a modest amount of ongoing funding to preserve

the value of those investments and ensure that the projects achieve their intended goals. Ongoing maintenance and operations activities would include upkeep of the infrastructure associated with these projects (for example, utility equipment such as backhoes, trucks, and dozers; radial gates; weirs; levees; pipelines; and aqueducts) as well preservation of habitats (for example, invasive species control, cleaning drainages, maintaining equipment, and conducting surveys).

...But Urgent Need for Other Positions Less Clear. The remaining ten positions proposed by the Governor would no doubt be helpful in supporting state activities at the Salton Sea. For example, proposed new staff would provide legal support, including on land access agreements; conduct outreach and engagement activities in local communities; provide environmental science expertise, including data collection and species surveys; provide administrative support; and manage budgets. However, in the context of the General Fund condition and resulting trade-offs, we are not certain whether these positions are absolutely vital to begin conducting these activities immediately. The Legislature could consider waiting to fund these positions until other revenue sources—such as lithium tax revenues—become available.

Delaying Some Activities Could Provide Opportunity to Use Other Funding Sources. A couple of other funding sources could become available to support some of the Governor's proposed activities in the next few years. As such, the Legislature may want to consider waiting to see if such funds materialize in lieu of providing General Fund for these activities now. First, part of the current request—\$8 million—is for the SCH Expansion project. The administration indicates this funding is intended to serve as a bridge until additional federal funds are received. However, the administration already received \$70 million in December 2023 from Reclamation for this project and anticipates an additional \$175 million in federal funds may be forthcoming. Moreover, Reclamation does not require a state cost share to draw down these federal funds. Consequently, the Legislature could consider waiting for additional federal funding for the SCH Expansion project activities rather than providing General Fund now.

Second, lithium tax revenues provide another possible source of funding for Salton Sea projects. The administration estimates the lithium tax could generate about \$9 million for SSMP in 2026-27 and up to \$35 million by 2028-29. The Legislature could defer supporting some of the proposed funding for positions and projects until lithium revenues become available. While such steps could help the General Fund now, a clear trade-off of waiting to see if other funding sources materialize is delaying project initiation. Postponing progress on the proposed projects could in turn lead to delays in meeting SWRCB's acreage targets and, more importantly, in mitigating the negative impacts of a shrinking Sea.

Meeting the State's Ongoing Responsibilities at the Salton Sea Will Require Longer-Term Funding Commitment. The Governor's 2024-25 proposals represent just one set of projects needed for the state to meet its 2028 restoration target at the Salton Sea. Given the significant public health and environmental risks at the Sea, as well as the state's legal responsibilities, the Legislature will need to grapple with how to fund these particular projects, additional (and as-yet undetermined) activities to meet Phase 1: 10-Year Plan acreage goals, and future projects in subsequent phases as the Sea continues to shrink. If the state cannot afford to support these costs on a pay-as-you-go basis with General Fund, it could consider using general obligation bond financing (which is also paid for with General Fund, but over a longer period). While that comes with the cost of debt service (including additional costs for paying interest on the debt), the annual cost is lower than paying up front. Another consideration is the timing of when the funds would be available to support projects. Even if the Legislature were to pursue a bond containing funding for Salton Sea projects, it would have to wait for a statewide election, the proposal would have to be approved by voters, and the resulting funds would not be available until after the election. (As such, bond funds could not be available at the beginning of the 2024-25 fiscal year to implement the Governor's proposals.) In addition, all projects will require ongoing maintenance activities to preserve their intended functions once construction is complete. While bond funds can be helpful to support capital construction,

they are not an ongoing solution for maintenance and operations costs. Lithium tax revenues may provide a source of funding upon which the state can depend in the future—however, the degree to which those will materialize (and when) still is uncertain. The Legislature also could consider the use of other special funds, such as, for example, the Greenhouse Gas Reduction Fund (GGRF), for

Salton Sea projects. (While these projects would not directly reduce greenhouse gas emissions, they would reduce air pollution in the region and provide benefits to a largely socioeconomically disadvantaged population, which could make GGRF an appropriate fund source to consider. The trade-off of this approach would be less GGRF available for other activities.)

RECOMMENDATIONS

Approve Request That Could Lead to Federal Funding. We recommend that the Legislature approve \$3 million for the state’s share of cost for the USACE feasibility study, as the state already committed to providing these funds and this relatively modest state investment could yield potentially significant future federal funds to help meet the state’s goals.

Approve Positions for Maintenance and Operations of Completed Projects. We recommend the Legislature approve funding and positions to support the ongoing maintenance and operations of projects the state has nearly completed at the Salton Sea, including the large-scale SCH project. This staffing would protect the state’s previous investments in these projects and help ensure the projects achieve intended goals. Specifically, we recommend approving (1) approximately \$700,000 and five ongoing positions (four at DWR and one at CDFW) beginning in 2024-25 and (2) a total of \$1.2 million and three additional positions (at CDFW) beginning in 2025-26 and on an ongoing basis. Once the Salton Sea Lithium Fund contains sufficient resources to support these costs in the coming years, the Legislature can shift them off of General Fund support.

Weigh Trade-Offs of Funding the Governor’s Other Proposals—Perhaps at a Partial Level—Against Other Budget Priorities. We find that the proposed SSMP projects have merit and remain important for addressing public health and environmental risks at the Salton Sea. Similarly, the other ten positions the Governor requests could help pursue the state’s goals in the region. However, providing the full amount of General Fund

the Governor proposes in 2024-25 would mean having to find additional budget solutions. Given the worsening budget condition, this could mean cutting into core ongoing programs. As such, we recommend the Legislature carefully consider how these activities rank alongside its other General Fund priorities. If supporting Salton Sea projects and staffing are important 2024-25 priorities for the Legislature even in constrained budget conditions, it has a couple of options for how it could proceed if it wanted to modify the Governor’s proposal.

First, it could consider providing a lower amount of funding to support fewer projects and/or fewer staff. This could allow the state to continue to make some progress on its goals at the Sea albeit at a slower pace. The Legislature could use one or more criteria to guide its decisions about which projects to support. For example: Which projects would be the most straightforward to complete (such as because they lack complex land access issues or would require fewer permitting hurdles)? Which would mitigate the public health impacts of toxic dust most effectively? Which would result in the most restoration acres completed? Which might leverage federal support? Which staff activities are most essential to conduct in the near term?

Second, the Legislature could consider providing the full amount requested, but to support fewer projects all the way through completion. This would address the concern that funding constraints might stall progress on the subsequent activities needed to finish the projects. For example, rather than funding the initial stages of all six projects displayed in Figure 4, the Legislature could instead provide \$60 million to support the full project implementation costs for four of the six projects:

San Felipe Fan (\$35 million), SCH Vegetation Enhancement (\$13.4 million), IID Clubhouse Expansion (\$8.4 million), and Wister Bird Unit Marsh Bird Habitat Project (\$600,000).

Exercise Caution in Initiating Projects Without Plan for Next Steps. The Governor’s proposed approach of starting six projects without having identified a funding plan for their completion raises concerns. To avoid that outcome, we recommend the Legislature either ask the administration to come back in May with a funding plan to complete the six projects or consider one of several options itself in light of these out-year uncertainties. For example, it could consider scaling down the proposal and only funding a select number of projects but supporting them through their completion, as described above. As an alternative, it could plan for a bond or build General Fund into its multiyear spending plan (as discussed next). Another option would be waiting until SSMP has more certainty about potential future federal funds and lithium tax revenues before initiating new projects. Whatever level of projects the Legislature chooses to support, we suggest it only do so if a plan is in place for how to fund these projects through completion to avoid stranded assets and wasted expenditures.

Consider How to Fund the State’s Longer-Term Commitment at the Salton Sea. Salton Sea management is a state responsibility

and, left unmitigated, conditions at the Sea pose serious health and environmental risks. However, addressing this commitment far exceeds a one-time \$60 million appropriation. We recommend the Legislature consider some combination of the following approaches for crafting a longer-term funding plan at the Sea:

- **Bond Financing.** The Legislature could ask voters to approve a general obligation bond containing funding to complete all Phase 1 projects.
- **Lithium Tax Revenues.** Once more is known about the new lithium extraction industry in the region, the Legislature could develop a multiyear plan to support certain projects and/or activities based on the amount of revenues expected to be available each year.
- **General Fund.** The Legislature could identify a certain amount of annual funding to dedicate to meeting its obligations at the Sea and build it into its baseline multiyear budget plans. This could include support for both operations and maintenance as well as modest annual allotments to make progress on capital projects.
- **Special Funds.** The Legislature could explore dedicating a certain amount from GGRF or other appropriate special funds for Salton Sea projects and activities.

LAO PUBLICATIONS

This report was prepared by Sonja Petek and reviewed by Rachel Ehlers. The Legislative Analyst's Office (LAO) is a nonpartisan office that provides fiscal and policy information and advice to the Legislature.

To request publications call (916) 445-4656. This report and others, as well as an e-mail subscription service, are available on the LAO's website at www.lao.ca.gov. The LAO is located at 925 L Street, Suite 1000, Sacramento, California 95814.



MEMO

TO: Salton Sea Authority Board of Directors and G. Patrick O’Dowd
FROM: Lisa Moore
RE: **Federal Report**
DATE: March 16, 2024

This memo describes our recent visits with the California congressional delegation in Washington, **our recent success in securing a legislative fix to enable us to seek additional funding for our U.S. Army Corps of Engineers Salton Sea feasibility study** (Corps study), our FY25 appropriations request, and next steps to secure additional funding for the Corps study.

I. Congressional Visits

Executive Director O’Dowd visited Washington the week of February 26. We visited with staff members representing the Salton Sea region — Senator Butler (D-Calif.), Senator Padilla (D-Calif.), Congressman Ruiz (D-Calif.), and Congressman Calvert (R-Calif.).

In those meetings, we focused on updating staff on the status of the Corps study and our need for their support to advance the full study (Course of Action 2 — COA2) recommended by the Corps LA District and Corps study local sponsors — the Authority and California Department of Water Resources.

As noted in previous meetings, COA2 has been identified by Corps study sponsors as the preferred course of action because it is the best path to holistically address the challenges at the Salton Sea. In particular, the Corps LA District determined that the other possible courses of action would not comply with Corps policies and Biden administration environmental justice orders. After the study is completed, we will be eligible to seek 65% federal funding to implement it.

To pursue COA 2, however, we described to staff that we need their assistance for 3 priorities:

- legislatively remove a barrier in prior law limiting our ability to increase funding into our study;
- seek bridge FY24 funding and FY25 appropriations for the Corps to undertake COA2; and
- secure a waiver of Corps’ internal policies dictating that studies such as ours be completed within 3 years and for \$3 million.

II. Legislation to Enable Corps Study to Receive Additional Funding Enacted in FY25 Minibus Appropriations Act

As described in past meetings, Corps HQ had interpreted language in a prior law as restricting our ability to seek additional funding for our study. (Other studies were similarly limited; this limit wasn’t targeted at our study.) It was the Corps’ view that this limitation needed to be lifted by Congress in a subsequent law. In order to advance removing this limitation, we briefed our Congressional delegation and submitted a request to them to address the problem in pending legislation.

I am happy to report that the limitation was successfully removed by the California and other affected delegations in the FY2024 Minibus Appropriations Act enacted on March 9, 2024. **Removing this limitation has key importance to our work, as it enables us to move forward a strategy to secure additional funds legislatively and administratively from the Corps for COA2.**

III. Addressing Expanded Study Funding

With the limitation now removed, we have two avenues through which we may pursue funding for the study. The next *legislative* opportunity to add funds to the study will come in the FY25 appropriations season. That season is now beginning. Senator Butler is the first member to solicit such requests and the Authority has submitted a funding request.

Given the timing of the appropriations season (bills are unlikely to be enacted until late 2024 or first quarter 2025), we will need to secure bridge funding to cover Corps' COA2 FY24 costs (\$898,130). This funding could now be directed from the Corps via its FY24 Work Plan. (Alternatively, the State could advance this funding as part of its required study cost-share.)

Securing this bridge funding is critical as it will enable the Corps to keep its project team advancing the study.

IV. Securing a Waiver of the Corps 3x3 Policy

The Corps has an administrative internal policy which dictates that feasibility studies be completed for \$3 million (split 50/50 between the Corps and the local sponsor/s) and within 3 years. At the outset of our study, the Corps advised that in order to undertake a full study, we would need to seek a waiver of this policy. With the funding limitation that had hindered our study now removed, we can pursue this administrative waiver.



TO: Salton Sea Authority Board of Directors
FROM: Oracio Gonzalez, Ollin Strategies
DATE: March 2024
SUBJECT: California State Advocacy

This memorandum provides a summary of state legislative and fiscal developments related to the Authority's state advocacy.

Fiscal

On March 6, 2024, the Governor's proposal to invest \$65.2 million on Salton Sea restoration programming as part of the 2024-25 state budget was heard before Assembly Budget Subcommittee 4 on Climate Crisis, Resources, Energy and Transportation. During the hearing, the Legislative Analyst's Office (LAO), which advises the legislator on policy and fiscal matters, recommended that the legislature approve only two components of the proposed investment totaling approximately \$5 million. Specifically, the LAO recommended that the legislature approve "approximately \$700,000 in 2024-25 and \$1.2 million in 2025-26 and ongoing for eight positions to maintain and operate existing projects that are complete or nearly complete," as well as \$3 million for the state's share of costs for the Imperial Streams Salton Sea Feasibility Study.

With respect to the remaining \$60 million included in the Governor's proposal, the LAO recommended the legislature consider other sources of funding instead of the general fund, including bonds, lithium tax revenues, general fund appropriations built into the SSMP's baseline budget and special funds, like a dedicated revenue stream from the Greenhouse Gas Reduction Fund.

While the legislature can, and has in the past, rejected recommendations from the LAO, realistically, given the over \$73 billion deficit facing the state, the lack of support from LAO makes it unlikely the legislature will approve the full \$60 million proposed by the Governor.

The next hearing on the Governor's proposed investment will take place on April 18 before Senate Budget Subcommittee 2 on Resources, Environmental Protection and Energy.

In terms of process, the subcommittees will likely wait until after the Governor releases his May Revise, an updated budget proposal incorporating the latest state revenues, before taking formal action on the proposal. Once the subcommittees take action, likely in mid-May, the Senate and Assembly budget committees will meet to adopt each house's version of the budget. Any

differences in either house's budget will be worked out in a conference committee before a final budget is submitted to the governor by the June 15, 2024 constitutional deadline.

Legislative

The following bills of relevance to the Salton Sea Authority have been introduced for consideration by the legislature.

Air Quality

AB 1834 (Garcia), previously a spot bill that would have addressed air quality concerns at the Salton Sea, Mr. Garcia has repurposed the bill to another area of policy. Mr. Garcia remains open to addressing air quality as part of the budget process.

SB 967 (Padilla), would require the University of California to develop and implement a pilot project in the County of Imperial and the Coachella Valley designed to develop a 3-day wintertime regional dust forecast capability and a dust storm early warning system for the monsoon season. In developing the project, the University would identify community strategies and focus on providing actionable information to historically underserved communities.

Location: Senate Committee on Education.

Hearing date: 3/20/2024

Economic Development

AB 2757 (Garcia): would establish the Southeast California Economic Region to align state and federal programs, services and funding to promote the economic expansion of the communities most affected by the development of the Lithium Valley and other clean energy projects. Further, the bill will require the Labor and Workforce Development Agency, the Governor's Office of Planning and Research, and Go-BIZ to develop a list of programs that will utilize the Southeast California Economic Region designation and boundaries in program and service delivery, planning activities, and making funding awards. The boundaries of the zone are defined as follows:

All unincorporated areas of the County of Imperial, including, but not limited to:

Bombay Beach.

Desert Shores.

El Centro Naval Air Facility CDP, California.

Heber.

Niland.

Ocotillo.

Palo Verde.

Salton City.

Salton Sea Beach.

Seeley.

Winterhaven.

All unincorporated areas of the County of Riverside, including census-designated places, that lie south of the 33rd parallel north and west of the 116th meridian west.

In addition, the follows incorporated communities are included:

The City of Brawley.

The City of Calexico.

The City of Calipatria.

The City of El Centro.

The City of Holtville.

The City of Imperial.

The City of Coachella.

The City of Indio.

The City of Westmorland.

Location: Assembly Committee on Jobs, Economic Development and the Economy

Hearing date: Not yet set.

AB 2922 (Garcia), would reauthorize the Capital Investment Incentive Program (CIIP) until January 1, 2035. The CIIP allows local governments to offer a partial property tax abatement for qualified manufacturing facilities for assessed property values in excess of \$150 million. The program, which is being used to help develop the Lithium Valley, expired in January 2024.

Location: Assembly Committee on Local Government

Hearing date: Note yet set.

SB 1309 (Padilla): would direct the California Energy Commission (CEC), in consultation with other state agencies, including the Governor's Office of Business and Economic Development (Go-Biz) and the California Workforce Development Board, to establish a Lithium Battery Production Council to conduct an economic analysis on workforce development needs, infrastructure needs, sewage and wastewater treatment, and housing needs for lithium battery production.

Location: Senate Committee Utilities, Energy and Communications

Hearing date: 3/19/24

Misc.

AB 2610 (Garcia), would expand the state's authority on the take of species to, in addition to the Quantification Settlement Agreement, also include impacts attributed to implementation of the Salton Sea Management Program and any water conservation agreements negotiated between the Imperial Irrigation District and the US Bureau of Reclamation to implement the Lower Colorado Rivera Basin System Conservation and Efficiency Program for the year's 2024 to 2026, inclusive. At present, IID is negotiating an agreement to conserve 800,000 acre-feet of Colorado River water during 2024-2026.

Location: Assembly Committee on Water, Parks and Wildlife
Hearing date: Note yet set.

SB 974 (Grove), would change the amount of funding being deposited into the Salton Sea Lithium Fund, the fund created to receive 20% of revenues generated from the lithium production tax, to only 20% of the revenues collected from lithium recovered within Imperial County. Under current law, 20% of all revenues generated by the tax are to be deposited in the Salton Sea Lithium Fund. The act would further require that 20% of the revenues generated from lithium recovered in Kern County be distributed to the communities most directly impacted by lithium extraction activities in the county.

Location: Senate Committee on Revenue and Taxation
Hearing date: Not yet set.

General Obligation Bonds

AB 1567 (Garcia), will place a \$15.9 billion general obligation bond before voters in November 2024. Of this amount, \$400 million is proposed for the Salton Sea, consisting of \$119 million in “shifted” funds and \$281 million in new dollars for Salton Sea restoration. Of the new dollars, the bond would set aside \$30 million for the Salton Sea Authority. Separately, the bill would provide \$15 million for a Salton Sea conservancy.

Location: Senate Committee on Natural Resources and Senate Committee on Government and Finance
Hearing date: Not yet set.

SB 867(Allen), would place a \$15.5 billion general obligation bond before voters in November 2024. The measure includes \$100 million for Salton Sea restoration activities.

Location: Assembly Committee on Natural Resources
Hearing date: Not yet set.